

**PONTIFICIA UNIVERSIDAD CATÓLICA DEL PERÚ**  
**ESCUELA DE GRADUADOS**



PONTIFICIA  
**UNIVERSIDAD**  
**CATÓLICA**  
DEL PERÚ

**¿DÓNDE ESTÁ EL PIRATA?**

**El comercio informal de películas digitales en el Perú.**

**Tesis**

Para optar el grado académico de  
**Magíster en Comunicaciones**

**Presentado por**

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## INTRODUCCION

En 1980 la productora hollywoodense Paramount Studios estrenó "¿Dónde está el piloto?", una comedia en tono de farsa que transcurre durante un vuelo de avión en donde los pasajeros, azafatas y pilotos se intoxican con la comida. El viaje, sin piloto y sin rumbo, se vuelve un caos.

Actualmente, la desconfianza que brota del pensamiento posmodernista, sumada a la libertad con que circula la información que promueve la Web, y también a la manera desenfrenada en que consumimos las nuevas tecnologías digitales en conflicto con la legislación sobre propiedad intelectual, ha llevado a la sociedad Internet a una situación de confusión y confrontación, sin hoja de ruta clara, análoga a ese film. No será esta la primera ni última vez que la realidad termine imitando a la ficción.

Es un lugar común decir que Internet y la tecnología digital han cambiado radicalmente nuestras vidas. Tanto John Thompson<sup>1</sup> como Manuel Castells<sup>2</sup> han escrito ampliamente sobre el tema. Sobre el particular Rafael Roncagliolo<sup>3</sup> ha hecho referencia a la manera en que la sociedad Internet ha desplazado lo público hacia lo privado - y viceversa - y también cómo los términos de la

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<sup>1</sup> THOMPSON, John, B. *Los media y la modernidad: una teoría de los medios de comunicación*. Barcelona: Paidós, 1998.

<sup>2</sup> CASTELLS, Manuel. *La era de la información: economía, sociedad y cultura. Vol. 2: el poder de la identidad*, Madrid: Alianza Editorial, 1998.

<sup>3</sup> RONCAGLILO, Rafael. *De las políticas de comunicación a la incomunicación de la política*, Nueva Sociedad 14, noviembre-diciembre 1995, pp. 102-111.

democracia moderna se han reformulado a partir de la era cibernética global.

Larry Lessig<sup>4</sup>, profesor principal de la Universidad de Stanford, ha estudiado en profundidad las implicancias del tema copyright y sostiene que la legislación sobre propiedad intelectual afecta el libre flujo de las ideas y amenaza la creatividad. Sin embargo pocos han tocado directamente el tema del comercio informal de películas digitales y específicamente cómo el Internet y las nuevas tecnologías digitales - con sus posibilidades de reproducción técnica - han puesto en cuestionamiento la legislación vigente sobre propiedad intelectual que limita de manera extrema la circulación de obras de naturaleza cultural y artística perjudicando los intereses y derechos de la sociedad en su conjunto.

### El problema

En el Perú, al igual que en la gran mayoría de países del mundo, el comercio informal de películas digitales (es decir venta y alquiler de DVDs sin licencia del tenedor de los derechos de utilización económica) está tipificado como delito. Sin embargo, la inmensa mayoría de consumidores peruanos de videos compra copias DVD piratas, y por lo tanto actúan al margen de la ley. Las normas vigentes sobre propiedad intelectual que ilegitiman la libre circulación de películas han terminado cuestionando los usos y costumbres de consumo cultural de los peruanos.

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<sup>4</sup> LESSIG, Lawrence. *Free Culture: The nature and future of Creativity*, New York: Pinguin Books, 2005.

El derecho de acceso libre a la información y cultura que hoy se plantea la sociedad global colisiona con los intereses económicos de las corporaciones productoras de contenidos audiovisuales (me refiero específicamente a Hollywood) y con una legislación sobre propiedad intelectual que estas mismas corporaciones han promovido a lo largo de las últimas décadas.

### Objetivo de la investigación

El objetivo de esta investigación es explorar si es sostenible o no la actual legislación sobre propiedad intelectual que penaliza la libre circulación de películas digitales en el Perú.

### Objetivos específicos

En esta tesis presentaré y analizaré algunos temas que nos ayuden a entender el origen, sentido, causas y consecuencias de la problemática cultural y social generada a propósito de la envergadura alcanzada por el comercio informal de películas digitales en el Perú. Para ello, a lo largo de estas páginas, desarrollaré los siguientes objetivos específicos:

1. Revelar la manera en que la revolución tecnológica digital ha precipitado la problemática del comercio informal de películas en el país.

2. Mostrar cómo se ha transformado la cadena productiva, de distribución y de consumo de los productos audiovisuales como consecuencia de la revolución tecnológica y la demanda creciente de la población de acceder a la información y la cultura.

3. Analizar la historia internacional y local de la legislación sobre propiedad intelectual para conocer cómo ésta se ha ido modificando a lo largo de los años en beneficio de intereses específicos.

Como supuesto central de esta investigación planteo que no es sostenible una legislación que afecte los intereses culturales de la sociedad. Para llegar a esta conclusión esclareceré los siguientes supuestos puntuales:

1. La legislación sobre propiedad intelectual (tanto global como local) que limita el libre flujo y acceso a la producción audiovisual, afecta los derechos que la sociedad Internet promueve de la mano con las tecnologías digitales.

2. El comercio informal de películas ha terminado siendo una vitrina abierta y libre al universo audiovisual y por lo tanto es un difusor de información, creatividad y cultura. Su contraparte, el mercado formal, al determinar - por razones económicas - qué, cuándo y cómo vemos un film restringen (aunque también sea verdad que en ocasiones nos lo facilitan) nuestra libertad de acceso al conocimiento que es la base del enriquecimiento cultural y de la creatividad de toda sociedad.

3. En plena era del comercio informal (o si se prefiere de la "piratería") las corporaciones de Hollywood siguen

ampliando sus utilidades. La demanda por razones económicas contra el comercio informal es por tanto falaz.

### La metodología

Creo necesario precisar la relación que mantengo con el tema de este trabajo. Desde hace treinta años me dedico a la producción y dirección cinematográfica habiendo realizado seis largometrajes de ficción y más de una docena de documentales. Además he desempeñado cargos directivos en diferentes asociaciones, gremios, federaciones e instituciones nacionales e internacionales vinculadas a la defensa y promoción de los intereses tanto de cineastas como de productores cinematográficos. Por lo tanto el tema de esta tesis no solo no me es ajeno sino que además soy parte interesada en tanto autor, productor y consumidor de películas. Escribo pues a partir de una experiencia profesional y personal, pero también nutrido por una serie de lecturas y textos a los que me he acercado durante los dos años de estudio en esta maestría. A lo largo de esta tesis iré contrastando argumentos cualitativos con material cuantitativo recopilado en mi investigación.

Los temas que aquí trataré deben ser entendidos como interrogantes y planteamientos iniciales para una investigación posterior y en mayor profundidad.

La importancia del tema y la necesidad de aportar a su comprensión me ha llevado a pensar que este trabajo

debiera ser publicado en forma de libro para alcanzar una amplia difusión. Por esta razón he optado por una redacción de corte ensayístico pero fundamentada con el rigor que un trabajo académico requiere.

### El cuerpo del trabajo

En el segundo capítulo de este trabajo hago un recuento de lo ocurrido en el Perú desde la llegada al mercado de la primera grabadora/reproductora de video, el cierre y transformación de las salas de cine en complejos multisalas, la reformulación de las prácticas de consumo de productos audiovisuales, la aparición del video digital, el cierre de las cadenas transnacionales de home-video hasta el reino actual del mercado de las películas piratas en DVD. Aquí presento las relaciones de causalidad y efecto producidas entre las innovaciones tecnológicas y los fenómenos sociales y culturales en el Perú.

En el capítulo tres toco un tema que nos ayudará a entender cómo la tecnología digital llegó para facilitarle la vida a los consumidores pero no a los productores de contenidos. Aquí develaré la manera descarnada en que se manifestaron los intereses corporativos cuando la tecnología hizo posible la duplicación audiovisual y por ende la piratería de películas. Me refiero en particular a la llamada guerra entre productores de tecnología y productores de contenidos. Un caso judicial famoso al que me referiré tiene que ver con la aparición del Betamax en el mercado.



Veremos cómo, luego de la sentencia de la corte suprema de los EEUU, los estudios de Hollywood reformularon el negocio cinematográfico inventando las casas de alquiler de videos, y con ellas los conceptos de video original y video pirata.

En el cuarto capítulo describo cómo operan el comercio informal y el formal de películas en el Perú, y la manera cómo el primero ha afectado el esquema comercial del segundo. Veremos algunas cifras y las formas de mutación del negocio cinematográfico a partir del cambio en los patrones de consumo de los peruanos. Detrás de este fenómeno está la aparición de los multicines, el surgimiento del consumidor individual promovido por la sociedad Internet, el cine en casa y los celulares. El análisis de las cifras mundiales del negocio cinematográfico acompañado de algunas interpretaciones sobre la manera en que funciona el negocio informal y su interrelación con el mercado formal nos revela que la piratería realmente no perjudica a los productores de películas.

En el capítulo quinto abordo el tema de las fuentes de derecho, el origen, los intereses en juego, las presiones o "lobbys" vinculados a la transformación del modelo legal que norma los derechos de autor, el tránsito del derecho de autor al copyright corporativo y los cambios en el concepto de propiedad intelectual desde hace dos siglos hasta nuestros días. También veremos cómo las grandes empresas audiovisuales productoras de contenidos (entiéndase Hollywood) han presionado para que los Estados implanten una legislación sobre propiedad intelectual que responde a sus intereses particulares y

que afecta seriamente los de la sociedad en su conjunto. Aquí veremos cómo a pesar de toda esta presión, la sociedad Internet está impulsando un futuro diferente donde el consumidor será el gran beneficiado.

En el sexto capítulo presento las conclusiones y recomendaciones a partir de las preguntas centrales planteadas a lo largo de este texto. ¿Qué hacer ante el fenómeno del comercio informal de películas que compromete a la mayor parte de la población? ¿Qué consecuencias tiene para la gente el que se siga penalizando este tipo de comercio y persiguiendo a vendedores y consumidores como delincuentes? Y finalmente la pregunta que resume las consecuencias del problema planteado en este trabajo: ¿Es sostenible una legislación que afecta los intereses culturales de la sociedad en su conjunto?

## 2. LA LLEGADA DEL HOME-VIDEO. EL CASO PERUANO.

Hasta comienzos de los años setenta el negocio cinematográfico en el Perú se desarrollaba sin sobresaltos. Las películas se estrenaban en salas y si bien ya algunas películas se daban por televisión, la programación televisiva se limitaba a noticias, programas de entretenimiento, series y telenovelas producidas exclusivamente para la pantalla chica. Pocos podían presagiar la dimensión y la naturaleza del problema que se avecinaba.

A mediados de la década de los setenta, con la entrada al mercado del Betamax (soporte de video desarrollado para uso doméstico por la corporación japonesa Sony), se da el primer paso hacia la televisión interactiva y personalizada. Estas primeras grabadoras/reproductoras de video cumplieron una triple función: primero, servían para ver en casa los video familiares que se grababan en las cámaras del mismo formato de video, también servían para grabar tu programa o película favorita de la televisión y verla cuando tú quisieras (con el novedoso sistema de "timer" que permitía al usuario grabar de la televisión sin estar en casa), y tercero, permitían ver filmes que podías alquilar (o comprar) en las tiendas de home-video que empezaron a abrir puertas ofertando este novedoso producto.

Se estima que entre 1980 y 1985 se vendieron en el Perú entre 50 y 70 mil grabadoras/reproductoras de video con una población de casi un millón de televisores<sup>5</sup>. El

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<sup>5</sup> GETINO, Octavio. *El cine y las nuevas tecnologías audiovisuales*, Contratexto No.3, julio 1988, pp. 93-119.

Betamax de los años ochenta se hizo popular en todos los sectores sociales del Perú. Durante esos años las familias de clase alta y media (el sector social que más asiste a las salas de cine) empezaron a quedarse en casa con amigos y familiares para ver a un costo bajo una película con la gran ventaja de poder hacer un alto para responder el teléfono, ir al baño o comer algo y luego continuar con la película en el mismo punto donde fue dejada.

Hoy parece gracioso hacer referencia a este aspecto de la práctica del home-video que ya sentimos que siempre existió. Pero esa posibilidad técnica - me refiero a parar la película para continuarla cuando uno quisiera - era sin duda novedosa y se percibía como un signo importante de estar cerca de la tecnología y la modernidad. En la misma época, en los barrios populares y pueblos jóvenes (ahora llamados conos) empiezan a aparecer los cine-video en locales familiares con un costo de entrada equivalente al de una bebida gaseosa. La familia que contaba con un televisor y una reproductora de video podía tener un ingreso adicional programando pases de filmes en las noches en la sala o en el garaje de su casa. Los chicos se reunían en casas, sentados en el suelo, a ver una película. Esta práctica social, barrial y comercial creció por toda la periferia pobre de Lima que se extendía horizontal y vertiginosamente sin salas de cines pero con el surgimiento del video en casa.

#### La expansión del home-video

A mediados de los ochenta el alquilar (y vender) películas en video ya se había instalado en pequeños negocios, locales y garajes por todos los sectores sociales de la ciudad de Lima como una manera "moderna" de insertarse en la nueva tecnología del home-video. Las vitrinas y escaparates de estas pequeñas tiendas se organizaban por géneros y procedencias: acción, drama, comedia, pícaras, europeas, latinas, etc. Las películas llegaban al Perú bajo distintas formas y rutas, pero todas ciertamente de manera informal. Bastaba que alguien trajera de viaje una copia de una película para que inmediatamente fuera posible realizar copios en serie que circulaban por toda las tiendas de la ciudad y en pocos días por todo el país. Pero al margen de estas rutas eventuales de "video-courrier" se fueron estableciendo corredores y canales regulares que traían de Venezuela, México, Argentina y Miami videos de estreno subtitulados al español. Así fue creciendo una red de negocios y oficios compartimentados, típico comercio con características de hormiga, donde cada eslabón iba ganando una partícula de este naciente mercado de películas.

Si bien durante la década de los ochenta el negocio de alquiler de videos era informal, no era clandestino. En la calle Choquehuanca, en el exclusivo distrito de San Isidro en Lima, muy cerca al Country Club, había una casa grande y elegante que en el garaje había implementado una tienda de alquiler de películas con la mayor selección de filmes europeos de calidad en Lima. Allí se alquilaban películas clásicas de todo tipo, época y nacionalidad con una selecta oferta de filmes de autor europeos. El único requisito para poder alquilar una

película era ser socio del club. En toda la ciudad se abrieron tiendas con fórmulas semejantes desarrolladas a partir de los gustos cinematográficos de los consumidores de cada sector social y generacional. Así la ciudad se fue llenando de locales formales de alquiler de películas en video: farmacias, librerías, bodegas y hasta los grandes supermercados, tiendas y almacenes (incluyendo a cadenas importantes como las tiendas Tía y Monterrey, los supermercados Wong y la exclusiva cadena Pharmax) contaban con una sección donde uno podía alquilar un video que por supuesto era una copia sin licencia. Es decir, Lima entera estaba plagada de copias de películas pirateadas en video. Pero pocos sabían o sospechaban del concepto de película pirata. O mejor dicho, el concepto de película original no tenía gran difusión y por lo tanto el de película pirata menos. Lo único que se sabía era que la calidad de las copias no era muy buena y que variaba de local en local de acuerdo a cuan cerca del original estaba en la cadena de reproducción. Porque, recordemos, estas eran copias Betamax realizadas en grabadoras de video caseras igualmente a partir de otra copia de video analógico. Y en cada generación la calidad de la imagen en video - y por supuesto del sonido - iba sufriendo y deteriorándose de manera exponencial.

Es importante recordar que fue justamente en la segunda mitad de los años ochenta que el terrorismo desarrollado por Sendero Luminoso y el MRTA en el Perú empezó a expandirse de los Andes centrales a la ciudad de Lima y con ello llegaron a la capital los apagones, los coches bombas y los toques de queda. Fue también durante el final de esa misma década que el Perú vivió una de las mayores crisis económicas del siglo con una

hiperinflación que alcanzó la astronómica cifra de los siete mil por ciento hacia el final del primer gobierno de Alan García (1985-90)<sup>6</sup>. Los miedos y temores generados por el terrorismo sumados a las restricciones económicas que vivíamos los peruanos afectaron tanto que los habitantes de Lima redujeron de una manera importante sus salidas nocturnas y sobre todo aquellas de entretenimiento cinematográfico. La consecuencia fue que el alquiler de películas en video para verlas en casa se convirtió en una práctica generalizada y común a todos los sectores sociales del país. Hasta en el pueblito más remoto no era raro encontrar que un vecino tenía un negocio de alquiler o proyección de videos.

#### Betamax vs. VHS

Hacia finales de los años ochenta hay un cambio tecnológico referido al tipo de soporte del video de uso doméstico que creo importante mencionar. Luego de una larga batalla comercial se consolida en el mundo la supremacía del formato VHS (de la también japonesa JVC) sobre el Betamax de Sony. Las razones de dominio de un formato sobre el otro si bien respondía a ventajas comparativas de prestaciones (el VHS permitía grabar contenidos con duración de dos, cuatro y seis horas contra una, dos y tres horas que ofrecía el Betamax) también tuvo que ver con una guerra de control sobre mercados mundiales que libraron las corporaciones japonesas que dominaban la fabricación de

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<sup>6</sup> Cuadros anuales históricos del Banco Central de Reserva del Perú.

<http://www.bcrp.gob.pe/bcr/Cuadros/Cuadros-Anuales-Historicos.html>

videograbadoras. Hay un par de supuestos que perfilan la naturaleza de este conflicto comercial. Uno es que el Betamax de Sony tenía, además de un costo de fabricación más alto, una licencia con mayores restricciones para otros fabricantes de videograbadoras y soportes. Un supuesto adicional es que Sony quiso impedir que en el Betamax circularan películas porno mientras el VHS de JVC no pretendió controlar los contenidos. Sea cual fuera la razón determinante lo cierto es que poco a poco la JVC fue ganando la guerra y todos los fabricantes de videograbadoras fueron alineando sus líneas de producción al VHS y el mercado mundial se unificó en torno a este nuevo formato que sin tener mejor calidad de imagen ni de sonido que su predecesor permitía más horas de grabación a menor costo. El precio y las prestaciones se impusieron sobre la calidad.

#### La crisis de la sala de cine

Cuando entraron los años noventa los cines del país (fenómeno que se reprodujo en todo el mundo) ya estaban en crisis y uno tras otro fueron cerrando sus puertas para dejar paso a centros que albergaban nuevos cultos religiosos y/o de sanación espiritual. De los casi 120 cines que hasta entrados los años ochenta funcionaban en el Lima, en el año 1991 se redujeron a 100 y en 1995 ya se había reducido a la mitad quedando solo 60 cines activos. Algunos de ellos (como por ejemplo el Alcazar, el Arenales, el Excelsior, el Roma, el Orrantia y el Real) buscando paliar la crisis remodelaron sus instalaciones abriendo dos, tres y hasta cuatro pantallas



en su local<sup>7</sup>. Si hasta finales de los años ochenta en todo el Perú se vendían al año más de veinte millones de entradas al cine, a mediados de los noventa la taquilla se había reducido a menos de diez millones de entradas anuales<sup>8</sup>.

La exhibición cinematográfica, como parte de una tendencia mundial producto de la reestructuración del negocio y el desarrollo de las nuevas tecnologías de proyección de imagen y de sonido, fue transformando sus grandes salas en multicines o multiplexes de seis hasta quince pequeñas salas cinematográficas en un mismo complejo. El cambio de las grandes salas de cine a los multicines no fue una respuesta mundial a la competencia "desleal" del negocio informal (ya conocido como piratería) que se implantó en torno al home-video. Las razones de este giro en las características del negocio de exhibición cinematográfica están fundamentalmente ligadas a procesos globales que tienen que ver con desarrollos tecnológicos digitales, con la necesidad de satisfacer un mercado de consumidores personalizado y ávido de diversidad en la oferta, y esto a su vez como consecuencia del proceso de desmasificación de gustos e intereses en la sociedad Internet.

### El video original y el pirata

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<sup>7</sup> Anexo 1. Listín cinematográfico de Lima. Diario El Comercio, meses aleatorios de años 1981, 1985, 1991 y 1995.

<sup>8</sup> Estos datos son estimativos a partir del conocimiento personal que he tenido por mi condición, durante esos años, de presidente de la Asociación de Cineastas del Perú. El hermetismo de las compañías distribuidoras que operan en el Perú sobre las cifras de taquilla hace que sea muy difícil conseguir datos duros.

En los inicios de los noventa, con la apertura de mercados y la liberalización de la economía, llegaron al Perú los negocios de franquicias. Con los primeros restaurantes de comida rápida (McDonald's, KFC y Pizza Hut) también se abrió el primer Blockbuster, un gigante norteamericano que hasta entonces dominaba el mercado de películas para home-video en el mundo. Acompañando a Blockbuster llegó también el concepto de video original y video pirata que hasta entonces - como mencioné antes - era un concepto nuevo para la gran mayoría de consumidores peruanos de películas. Luego de la apertura de varios locales en los distritos de clase media y media alta de Lima, Blockbuster inició una guerra abierta contra todos los negocios y comercios formales que alquilaban películas en VHS sin autorización del distribuidor. Esta gestión no hubiera sido posible si no hubiese estado acompañada por un importante lobby de la oficina comercial de la Embajada de los EEUU. En el reporte especial del 2006 del International Intellectual Property Alliance<sup>9</sup> (organización privada norteamericana que defiende los intereses de las industrias de productos con derechos de propiedad intelectual) se evidencia el nivel de presión que ejerce esta organización sobre el gobierno norteamericano para que intervenga en las política interna del Perú en relación a las acciones anti-piratería. Como ejemplo cito:

"Acciones que el gobierno peruano debe realizar en el 2006: Conducir acciones anti-piratería, continuas y concertadas a los mercados negros de

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<sup>9</sup> Anexo 2. International Intellectual Property Alliance. 2006 Special 301 Report. Peru. pp. 337-344.

Lima (especialmente Mesa Redonda, Avenida Wilson, Galerías Garcilazo de la Vega, El Hueco, Polvos Azules y Polvos Rosados) así como en las calles de áreas de alto tráfico, dando atención particular a Miraflores, San Isidro y otros barrios de clase media así como a otras ciudades objetivo en el resto del país". (pp. 337 del reporte).

En el mismo documento encontramos un párrafo aún más revelador:

"Coordinar esfuerzos entre la oficina de copyright y las municipalidades locales para revocar las licencias dadas a vendedores que ofrezcan productos piratas". (pp. 338 del reporte).

Esta presión política obligó a que Indecopi (Oficina de defensa del consumidor) "se comprara" el pleito y los negocios formales fueran abandonando el negocio de venta y alquiler de películas sin licencia del distribuidor. Muy pronto farmacias, garajes, supermercados, bodegas, etc. dejaron de vender y alquilar películas en video y la cadena Blockbuster (con solo 12 locales) se convirtió en un monopolio del negocio del home-video. A los pocos años llegó otra cadena (igualmente norteamericana) de casas de alquiler de filmes: West-Coast Video. Todo parecía que el negocio formal de alquiler de películas ya estaba por quedarse y normalizarse en el Perú. Y con ello la desaparición del negocio informal y la película pirata.

Pero la situación en los distritos donde vive la población de menores ingresos fue otra. Los cines habían desaparecido de los barrios y zonas pobres de la ciudad y los nuevos complejos cinematográficos se instalaron solo en las zonas más comerciales y exclusivas de Lima. El resto de la ciudad y del país, donde vive la gran mayoría de la población, quedaron desabastecidos del universo audiovisual. Este espacio marginal y enorme de consumidores de bajos recursos fue ocupado por el comercio informal de películas en video VHS. La calidad de los filmes no era buena pero era lo que había, lo que se tenía. En general podemos decir que si bien el consumidor de mayores recursos empezó a comprar y alquilar videos del comercio formal (porque la calidad de imagen y sonido justificaba el mayor precio), la mayoría de consumidores peruanos de video (sea cual fuera su sector social) nunca llegó plenamente a aceptar que lo que había sido su práctica normal de consumo durante una década ahora era ilegal y constituía un acto de carácter delincuencial. Además es importante tener en cuenta que durante más de diez años el comercio informal de películas era validado por los mismos grandes almacenes y tiendas formales que nos vendían y alquilaban las copias de películas, y la tecnología de duplicación (las videograbadoras) de manera legal. Detrás de este razonamiento subyace de manera inconciente un concepto que ha impuesto la sociedad cibernética: la legislación siempre camina rezagada en relación a los cambios tecnológicos, y tarde o temprano tiene que adecuarse a ella.

#### El despegue y crisis del home-video formal

Por otro lado, hacia finales de los años noventa, en los EEUU se producían muchas películas exclusivamente para el mercado de home-video. El negocio estaba en ascenso. De los más de 20 mil millones de dólares que facturó en esos años la industria cinematográfica norteamericana en todos sus formas en el mundo (salas de cine, video y DVD, televisión de pago y televisión de señal abierta) casi la mitad, es decir un promedio de 10 mil millones, provenía precisamente de la venta y alquiler de DVDs (ver cuadro 1).

Cuadro 1

INGRESOS HOLLYWOOD NIVEL MUNDIAL (en miles de millones)<sup>10</sup>

Año	Cines	Video DVD	TV Paga	TV Abierta	Total	% Cines
1948	6.9	0	0	0	6.9	100
1980	4.4	.2	.38	3.26	8.31	55
1985	2.96	2.34	1.04	5.59	11.9	25
1990	4.9	5.87	1.62	7.41	19.79	22
1995	5.57	10.6	2.34	7.92	26.53	20
2000	5.87	11.67	3.12	10.75	31.41	19.5
2003	7.48	18.9	5.56	11.4	41.2	17.9

Si bien la mayoría de estos filmes producidos para este naciente mercado de video eran de bajo presupuesto y calidad, además de realizados sin actores ni directores de reconocida trayectoria, constituyeron una importante

<sup>10</sup> EPSTEIN, Edward Jay. *How Studios Make Money*.  
<http://www.edwardjayepstein.com/Demyst3.htm>

industria cultural de los EEUU con todo lo que el término implica<sup>11</sup>.

Como la mayor parte de estos filmes no se estrenaban en salas, sino que iban directo a las tiendas de home-video, el consumidor no tenía manera de discriminar un buen film de uno malo. El negocio empezó a sufrir y los productores fueron entendiendo que para que una película se venda en el mercado de home-video era imprescindible que tuviera antes un estreno comercial en salas de cines. El boca a boca, la publicidad, las críticas en los medios, y por supuesto la noticia de la prensa de farándula y entretenimiento, todo repercutía sobre el éxito comercial del film en las tiendas de alquiler de películas. Una explicación de cómo funciona este negocio en la industria la da Edward Jay Epstein en su página Web sobre la economía del cine en los EEUU cuando demuestra que, si bien gastan millones en publicidad para un lanzamiento en salas, la recuperación real de la inversión de una película se da en el mercado del DVD: en el 2003 los estudios recibieron cinco veces más ingresos por la venta y alquiler de DVDs y ventas a televisión que por la taquilla en salas de cine<sup>12</sup> (volver al cuadro 1).

A partir del momento que la industria del cine entiende cómo funciona el negocio de alquiler y venta de películas de video se redujo significativamente el número de filmes producidos exclusivamente para las tiendas de alquiler de video, se inventó la conocida ventana de explotación de

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<sup>11</sup> GARCIA CANCLINI, Nestor. *Todos tienen cultura: ¿quiénes pueden desarrollarla?*

<http://www.iadb.org/biz/ppt/0202405canclini.pdf>

<sup>12</sup> EPSTEIN, Edward Jay. *How Studios Make Money.*

<http://www.edwardjayepstein.com/photos.htm>

seis meses (el plazo de tiempo que tiene que pasar entre el estreno en sala de cine y la salida comercial del film en el mercado de home-video para evitar que uno perjudique al otro) y se sincronizaron los estrenos a nivel mundial<sup>13</sup>.

Pero a estas alturas, en el Perú, ya era inevitable que las películas piratas se saltaran las ventanas de explotación y llegaran a las calles antes de su estreno comercial en salas. El negocio del home-video formal (Blockbuster y compañía) empezó a sentir el golpe. Su oferta de películas ya estrenadas hace meses tenía que competir con películas nuevas, recién estrenadas en salas, que salían muy baratas a las calles. Las casas de alquiler empezaron a inventar nuevas formas de marketing para no perder a sus clientes. Pero no tuvieron mucho éxito porque el alquiler de una película seguía siendo caro (casi tres veces el precio de un film pirata) y venía con una multa importante si no lo devolvías a la tienda en el plazo de 2 o 3 días que tenías para verla.

### La llegada del DVD

No fue hasta finales del siglo XX, con la llegada de la tecnología digital al home-video que el negocio tuvo un gran respiro económico. La importante mejora en la calidad de imagen y audio del DVD (digital video disc), la posibilidad de incorporar en un mismo soporte un menú

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<sup>13</sup> GIL, Ricardo. *La Piratería en España: El Caso de la Industria Musical y del Cine*, Departamento de Economía, Universidad de California, Santa Cruz, p.13.  
[http://people.ucsc.edu/~rgil/Pirateria\\_en\\_Espana.pdf](http://people.ucsc.edu/~rgil/Pirateria_en_Espana.pdf)

de opciones (que incluyen diferentes idiomas en subtítulos, escenas detrás de cámaras, entrevistas con el director, con los actores, video-clips, etc.) significaron atractivos adicionales que fueron convirtiendo al DVD en objeto de consumo y de colección. La calidad de imagen y sonido del DVD fueron factores determinantes para el nuevo impulso que recibió el negocio del home-video. En un lapso de tiempo que no duró más de un año, fueron saliendo del mercado los casetes y las video/grabadoras en soporte VHS y fueron sustituidos por las reproductoras de discos de video digitales conocidas como DVD. Pero este revolucionario invento tenía un talón de Aquiles para los distribuidores y las casas de alquiler de home-video: la posibilidad técnica de duplicación idéntica sin perder un ápice de calidad de imagen ni de sonido. Esta particularidad fue como una inyección de adrenalina para el negocio informal de home-video. La piratería empezó a multiplicarse ya que podía competir sin desfase de calidad con las copias originales.

#### El auge del comercio informal

Si bien las campañas anti-piratería y las acciones contra el comercio informal se incrementaron de manera significativa con la entrada al mercado del DVD, el negocio de las películas llamadas piratas no solo no disminuyó sino que se multiplicó en el Perú. Todos los mercados populares, desde Polvos Azules hasta Polvos Rosados pasando por supuesto por la Minka o Mesa Redonda, se fueron llenando con decenas de puestos que vendían DVD piratas a precios equivalentes a \$1.5 dólares



norteamericanos. En las esquinas de mayor tráfico vehicular circulaban abiertamente los vendedores ambulantes de filmes piratas cuya venta estaba prohibida y penalizada por la ley de propiedad intelectual.

Las continuas campañas mediáticas y operativos de cierre de puestos, persecución de vendedores y destrucción de discos de video terminaron una y otra vez en fracaso. Al día siguiente se volvía a abrir otro puesto con cientos de películas en DVD y aparecían nuevos vendedores ambulantes con más películas. Era una guerra perdida.

Durante el año 2006 las cadenas de home-video Blockbuster y West-Coast Video cerraron sus negocios en el Perú. Las razones parece que son evidentes: no pueden competir en precio con el negocio masivo de películas piratas. Hoy más del 95% del consumo de filmes en DVD en el Perú es informal o pirata. Y no solo el éxito del mercado informal de películas tiene que ver con el precio. También tiene que ver con la oferta de películas. Mientras en las salas rara vez hay más de veinte títulos en cartelera con un promedio de 4 estrenos semanales, en el mercado informal debe haber más de un millar de títulos en oferta permanente con por lo menos veinte títulos nuevos cada semana. Esta enorme diferencia tiene que ver con los filmes que el negocio de la exhibición de cine en salas no considera rentable traer al país. Mientras el mercado informal no discrimina y vende filmes comerciales, películas de festivales, clásicos del cine, películas de culto o de cinematografías impensables para los distribuidores.

Sin embargo es posible que hayan otras razones detrás del cierre de Blockbuster. Sino cómo se explica que en el mismo año 2006 esta multinacional del negocio del homevideo también cerró todas sus tiendas en España donde la piratería de películas (fundamentalmente realizada vía descargas de Internet) no supera el 5% del comercio DVD<sup>14</sup>. Habría que considerar si hay algo en la manera en que opera el negocio que ha ahuyentado a los consumidores que están obligados a volver a la tienda para devolver el DVD alquilado. En los EEUU en 1999 apareció NetFlix una nueva forma de negocio de homevideo cuya característica principal es que opera por Internet, se paga una tarifa fija mensual y no cobra costo de envíos ni retornos de DVD por correo ni penalidad por demora en la devolución. Esta empresa descubrió que el punto débil de Blockbuster era definitivamente el fastidio que creaba en el consumidor el tener que desplazarse a la tienda de alquiler para devolver el DVD y encima pagar una mora. Blockbuster ha tenido que incorporar a su negocio el sistema de Netflix. Pero para que este negocio funcione se necesita un sistema de correo eficiente y confiable que como bien sabemos no existe en todas partes. Una razón adicional que habría que considerar para la salida de Blockbuster del mercado español es la que señala Sergio Mena Muñoz, investigador de la Universidad Complutense de Madrid, cuando explica el impacto que ha tenido en los jóvenes el creciente negocio de video bajo demanda en Internet<sup>15</sup>.

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<sup>14</sup> Anexo 3. PROSERPIO, Luigi; SALVEMINI, Severino; GHIRINGHELLI Valerio. *Entertainment Pirates: Understanding Piracy Determinants in the Movie, Music and Software Industries*, Bocconi University, Institute of Organization and Information Systems, p.12.

<sup>15</sup> MENA MUÑOZ, Sergio. *Video bajo demanda on line: la desaparición efectiva de los videoclubes tradicionales*.



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<http://hapaxmedia.net/ibercom/pdf/MenaSergio.pdf>

### 3. LA TECNOLOGÍA DIGITAL TRAE FELICIDAD A UNOS Y MALESTAR A OTROS.

Cuando en 1976 la primera grabadora de video Betamax salió al mercado no solo significó un éxito comercial inmediato, también generó un conflicto de proporciones que puso en el centro del debate el tema de estas páginas: el copyright y la propiedad intelectual frente al derecho al acceso a la información y cultura.

Hacia finales de los años setenta la manera de ver películas dio un cambio radical en el mundo. Hasta ese entonces las películas solo se podían ver en salas de cine o en televisión y bajo el esquema de una programación en la que el espectador no participaba directamente en la elección de lo que quería ver. La decisión de qué ver y cuándo ver la tomaban los distribuidores de películas, las salas de cine y los canales de televisión según lo determinaban sus programadores. Era el reino de los estudios de mercado y de audiencia. La llegada de las grabadoras-reproductoras del Betamax fue un salto tecnológico que trajo consigo una nueva forma de consumir películas que hasta ese momento era inédita. A partir de entonces se abrió la posibilidad al espectador de grabar, alquilar o comprar una película en video y verla en el momento que más le convenía en la comodidad de su hogar. El consumidor pasó a ser dueño de su tiempo y también de la programación del entretenimiento cinematográfico. Esto significó el inicio de la diversificación de la demanda y por tanto de la oferta de películas tanto en televisión como en las tiendas de alquiler que pronto abrirían sus puertas.

Pero la posibilidad técnica del copiado se engendra bastante antes. El precursor de la sociedad de la reproducción, inventado mucho tiempo antes que la fotocopiadora Xerox durante los años sesenta, fue sin duda la imagen fotográfica por Nicephore Niépce en 1826. A partir de entonces, de la misma manera como había pasado con los textos y libros cuando se inventó la imprenta, las imágenes dejaron de ser piezas únicas. En 1936 Walter Benjamín en su conocido texto "La Obra de Arte en la Época de su Reproductibilidad Técnica" profundiza sobre el significado de la obra de arte en los tiempos de la reproducción y el fin de la pieza original. El tema tiene por tanto larga data.

#### Sony vs. Hollywood

Luego de la aparición de la grabadora Betamax en las tiendas norteamericanas, los Universal Studios de la mano con la Walt Disney Company entablaron una demanda judicial a la Sony Corporation con el fin de bloquear la comercialización de esta grabadora de video que se había convertido en un boom de ventas<sup>16</sup>. Universal acusaba a Sony de vender un producto que permitía a los usuarios grabar programas y películas de la televisión violando con este acto las normas del copyright. La compañía japonesa replicó diciendo que el uso principal de la grabadora era permitir un "time-shift" (cambio de hora) por lo cual el usuario podía grabar una película y verla luego en otro momento de su conveniencia. Esto, argumentaban los fabricantes japoneses, era un "fair use"

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<sup>16</sup> Sony Corp. of America v. Universal City Studios, Inc.  
[http://en.wikipedia.org/wiki/Sony\\_Corp.\\_of\\_America\\_v.\\_Universal\\_City\\_Studios,\\_Inc.](http://en.wikipedia.org/wiki/Sony_Corp._of_America_v._Universal_City_Studios,_Inc.)

(uso justo) que no atentaba contra los derechos económicos del productor de la cinta. Luego de una disputa judicial de casi ocho años, finalmente en 1984 la Corte Suprema de los EEUU, tras hacer estudios de mercado en profundidad del uso que le daban los televidentes norteamericanos a la grabadora casera, dictaminó a favor de Sony y en contra de la demanda de la Universal Studios. Los productores de tecnología habían ganado su primera batalla sentando un precedente importante: un instrumento con posibilidades tecnológicas de reproducción y copiado de contenidos no era considerado necesariamente como un instrumento de violación del copyright de estos.

Luego de perder el juicio contra la Sony, Hollywood salió a inventar una manera de sacarle partido a la adversidad y concibió el negocio de las casas de venta y alquiler de videos. Esta es la partida de nacimiento del video original al que hice mención en el capítulo dos de este trabajo. Este nuevo negocio - el home-video - se integró a la cadena de distribución de la industria cinematográfica en lo que se llamaron las ventanas de explotación o de comercialización de películas. Buscando evitar la canibalización de los diferentes estamentos del comercio de películas, los distribuidores acordaron que los filmes primero se estrenaban en salas, seis meses después salían en los negocios de alquiler de home-video, y seis meses más tarde en la televisión de señal abierta. Recordemos que en el año 1984 todavía no existía la televisión de cable ni el pay-per-view, los que años después entrarían a formar parte de esta cadena de explotación en ventanas. Lo particular de esta historia es que Hollywood inventa un negocio a su gusto y manera

sin respetar los intereses de los productores pequeños ni del consumidor. Pocos años más tarde el mercado los castigaría obligándolos a modificar el patrón del negocio y a sufrir los estragos de la imparable piratería.

### Caso Napster

En 1999, otro caso se ubicó nuevamente en el centro del debate pero esta vez con el triunfo de los productores de contenidos. El caso Napster<sup>17</sup> es conocido como la demanda judicial de la Asociación Americana de la Industria Discográfica (RIAA) contra Napster una compañía productora de tecnología que desarrolló un espacio en la Red bajo el cual los usuarios de Internet podían intercambiar músicas de forma gratuita vía los protocolos P2P (del inglés: peer to peer sharing) que se refiere a los espacios donde se comparten archivos entre iguales. En este caso la Corte Suprema dictaminó a favor de los productores de contenidos y puso fuera de la ley a Napster argumentando que se había inventado un mecanismo para violar los derechos de *copyright* de los productores de música. Sin embargo, como Internet es un espacio libre donde se opera desde cualquier lugar del mundo y hacia todo el mundo en una autopista cibernética de doble vía, las páginas P2P donde se descarga música de forma gratuita nunca dejaron de existir en la Web. El resultado ha sido que la batalla contra Napster se ha trasladado de una manera absurda contra los usuarios de este tipo de herramienta de la red. Las penas que se imponen en EEUU y en Europa a quien se detecta y

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<sup>17</sup> Napster.

<http://en.wikipedia.org/wiki/Napster>

encuentra culpable de haber descargado 'ilegalmente' material con copyright de la red son mayores a que si se encuentra a alguien robando en una tienda un producto similar.

### Viacom vs. Google y Youtube

La guerra no termina. Desde el año 2006 Viacom y Google están enfrentados en un nuevo caso de disputa sobre propiedad intelectual y *copyright* frente a las nuevas tecnologías de Internet que promueven el libre flujo de la información<sup>18</sup>. Viacom - una corporación que agrupa a un conglomerado de compañías productoras de películas y de televisión norteamericanas - ha demandado por mil millones de dólares a Google (el gigante de los buscadores de Internet) por permitir que en su exitosa página *Youtube* circule libremente miles de videos que le pertenecen y que no han pagado los derechos de *copyright*. La empresa demandante (Viacom) reclama que es responsabilidad del operador de la página el filtrar y no permitir que se suba material que no tenga saneados los derechos de *copyright*. El demandado (Google) a su vez replica que no es su responsabilidad ni está obligado a operar un filtro de esa naturaleza porque el principio de Internet es el libre flujo de la información. Buscando un punto de acuerdo Google le ofrece a Viacom descargar de su página todos aquellos videos que ellos le señalen como infractores del *copyright*. Viacom no ha aceptado esa propuesta. La guerra entre los productores de contenidos

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<sup>18</sup> *Viacom vs. Google - a \$1 billion test*. San Francisco Chronicle.  
<http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2007/03/14/MNG7BOKV0V1.DTL>



y los de tecnología está declarada. Pero como la tecnología digital y su hermana mayor Internet están para quedarse podemos empezar a imaginarnos un futuro diferente donde el consumidor imponga sus derechos al conocimiento y a la información por encima de los intereses corporativos que están tardando mucho en imaginarse esquemas de negocio que se adecuen a la filosofía libre que ha impuesto Internet.

El mismo 26 de abril del 2007, fecha en que se celebra el "Día mundial de la Propiedad Intelectual", apareció en la edición internacional del Herald Tribune un artículo que me llamó la atención<sup>19</sup>. Bajo el sugerente título de "In media, we distrust", que se traduce literalmente como "En los medios desconfiamos" (haciendo alusión irónica a la frase emblemática de los EEUU: "In God, we trust"), la nota periodística presenta un estudio realizado a nivel mundial por Edelman<sup>20</sup>, la agencia de relaciones públicas más grande del mundo, donde la industria de medios y entretenimiento aparecen en último lugar entre doce industrias cuando se le pregunta al encuestado por su nivel de confianza. Delante de estos productores de contenidos aparecen las industrias de salud, las compañías de seguros, de transportes, de alimentación, etc. Pero lo más sorprendente del caso es que la industria que aparece consistentemente en primer lugar de confianza es la industria tecnológica. Este mismo estudio, realizado con mayor profundidad en Inglaterra y Francia, reveló el mismo nivel de desconfianza en las compañías productoras de entretenimiento (cine,

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<sup>19</sup> *In Media we distrust*. International Herald Tribune.  
<http://www.iht.com/articles/2007/04/25/business/ptend26.php>

<sup>20</sup> *Distrust in the entertainment industry...* Edelman.  
[http://www.edelman.co.uk/newsevents/news/news\\_details.asp?ID=28](http://www.edelman.co.uk/newsevents/news/news_details.asp?ID=28)

televisión y música) y mucho mayor nivel de confianza en las productoras de tecnología. La respuesta consistente era que estas últimas te dan más valor por el dinero. Este tipo de respuesta se acentúa de manera evidente en los jóvenes nacidos bajo la sociedad Internet que espera información y entretenimiento a costo cercano a cero. Además el mismo estudio revela que la confianza en las industrias tecnológicas tiene que ver con la percepción que estas traen progreso, productividad y bienestar; mientras que las industrias de contenido a menudo prometen mucho, dan menos y cobran demasiado. Un ejemplo de esto último: en el caso particular del cine es frecuente escuchar que el trailer y el afiche son mucho mejores que la película. Si la encuesta de Edelman revela la verdad sobre lo que los jóvenes en el mundo (los mayores consumidores de productos con copyright) piensan sobre las industrias que producen contenidos frente a las que fabrican tecnología entonces estaríamos acercándonos a una de las razones que llevan a que en un porcentaje tan alto los jóvenes consuman, libremente y sin sentimientos de culpa, material informal de entretenimiento: música y películas piratas. Más aún en un país pobre como el nuestro donde el tema económico (valor por tu dinero) tiene mucha mayor importancia y determina lo que hacemos o dejamos de hacer. La lección es clara. Mientras que las recientes innovaciones tecnológicas (iPods, celulares, memorias USB, laptops, señales WI-FI, etc.) dan libertad, movilidad y promueven la individualidad, eficiencia y singularidad de los jóvenes de la sociedad Internet, los productores de contenidos quieren impedir que estos deseos se realicen.

Los hijos de la sociedad Internet han crecido acostumbrados a que la información circule libre de forma virtual sin pagar nada a cambio. Todos los intentos por cobrar a cambio de información de uso masivo en Internet han terminado fracasando. Como ejemplo están los diarios en línea que intentaron inicialmente operar sus páginas Web bajo un esquema de suscripción y han tenido que abrirse al acceso libre cobrando solamente por usar sus archivos (New York Times, Washington Post). Un caso de excepción es la pornografía cuyo pago por acceso es considerado por el usuario como una penalidad por negociar con algo moral y socialmente censurado. La naturaleza misma de Internet es la libertad de circulación de información en todos los sentidos. Recibo y doy sin nada monetario a cambio. Solo el trueque es permitido y aceptado. Véase como en los protocolos de páginas que ofrecen el servicio de intercambio de músicas P2P hay un principio de equidad en juego ya que uno accede a tantas canciones como pueda ofrecer a los demás usuarios de la red. En algunos países ya se están encontrando mecanismos para que el uso de las tecnologías de copiar y compartir productos de entretenimiento con copyright (entiéndase canciones o películas) pueda dejar de ser ilegal. Por ejemplo, en Canadá, ya se ha legalizado el descargar canciones de la red en una página P2P<sup>21</sup>. Para compensar a los músicos y a las casas discográficas se ha creado un impuesto de 25 dólares sobre los aparatos grabadores y reproductores de MP3 y iPods. La recaudación de este va a un fondo que beneficia a los poseedores del copyright. En Europa se hace lo mismo con las películas. Para compensar a los tenedores

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<sup>21</sup> *Canada deems P2P downloading legal*, CNet News.  
[http://news.cnet.com/2100-1025\\_3-5121479.html](http://news.cnet.com/2100-1025_3-5121479.html)

de los derechos de autor de los filmes por el copiado indiscriminado de películas en casa (lo que se conoce como copia privada) las videograbadoras pagan un impuesto (que es trasladado por las tiendas al consumidor) que va a un fondo de la misma naturaleza y destino que el canadiense.

Mientras escribo estas líneas la historia de las descargas musicales ilegales de la red es cosa del pasado<sup>22</sup>. Una página Web como Qtrax.com ya ofrece el servicio de descargas legales y gratuitas con una librería de 25 millones de títulos musicales disponibles. ¿Están burlando los derechos de copyright? ¿La piratería ganó la guerra? No. Simplemente que Qtrax, la operadora del portal, vende publicidad a terceros y con ello paga los derechos que corresponden a las casas disqueras y a los artistas. Esto confirma la revolución del libre flujo de la información que la Web ha propiciado.

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<sup>22</sup> Anexo 4. COLES, M O; HARRIS, Lisa; DAVIS, R. *Is the Party Over? Innovation and Music on the Web*, Journal - ICES, Leicester, Inglaterra: Troubador Publishing Ltd, 2004. Vol.1, Issue 2, Paper 3.

#### 4. LOS MERCADOS Y NEGOCIOS AUDIOVISUALES SE RECOMODAN.

Según datos de la International Intellectual Property Alliance la piratería de todos los productos con propiedad intelectual (películas, música, libros, software de computación, etc.) llegó a negociar en el mundo durante el 2004 quinientos mil millones de dólares, una cifra mayor que la negociada en el tráfico de drogas ese mismo año (322 mil millones)<sup>23</sup>. Según la misma IIPA las productoras de cine norteamericanas (Hollywood) han perdido en el 2005 por efecto de la piratería de películas en soporte DVD - en una muestra de 68 países - dos mil millones de dólares<sup>24</sup>. Esta organización además sostiene que en el año 2004 en el Perú la piratería de películas alcanzó el 75% del negocio de DVD (en el año 2003 había sido solo el 50% del negocio)<sup>25</sup>, lo que significó para las productoras norteamericanas una pérdida de ingresos de alrededor de cuatro millones de dólares. No sé cómo llegan a esa cifra. No sé si se basan en el número de DVDs originales que dejaron de vender por la piratería o las películas que dejaron de alquilar. Tampoco sé si estiman que cada comprador de un DVD pirata es un potencial espectador de sala de cine que ha dejado de pagar su boleto.

Cuando hablamos de películas piratas nos referimos a las copias digitales de filmes que se venden al público sin pagar los derechos de comercialización (o de utilización económica) a los productores o distribuidores tenedores

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<sup>23</sup> Anexo 5. International Intellectual Property Alliance. Carta al representante de la oficina de Comercio Exterior de los EEUU. p.12.

<sup>24</sup> Ibid. p.22.

<sup>25</sup> Anexo 2. p.338.

del copyright de dichos filmes. Quienes trabajan en este negocio informal (en el Perú y en el mundo) han surgido de las posibilidades que les ofreció primero la tecnología del video, luego las grabadoras de duplicación digital y finalmente el Internet para copiar las películas en discos (DVD) y ponerlos a la venta minorista.

### El negocio informal y sus particularidades

El negocio de la películas piratas tiene una parte oculta y una expuesta, una informal y una formal, y por supuesto una ilegal y otra legal. La parte del negocio que se refiere a la producción, es decir al copiado de películas y empaquetado del DVD, funciona de forma clandestina con una vinculación estrecha pero disfrazada del negocio legal de la importación de los soportes que son los discos DVD propiamente dichos. Mientras que la importación de los contenidos (las películas) se da de varias formas y maneras. Unas llegan bajo el brazo de un emisario, otras entran por courier, otras se compran en Internet legalmente, y otras son descargadas de la Web con procesos muy largos: pueden ser más de diez horas o hasta días según la calidad que uno quiera obtener. Esta parte del negocio, la entrada al país de la película también puede ser legal o ilegal. Normalmente las películas clásicas o antiguas o aquellas que vienen luego de haber sido estrenadas en otro país latinoamericano pero no en el Perú, entran de manera legal pues los originales han sido comprados en tiendas de películas o vía Internet.

### Volumen del negocio informal

¿Cuál es el volumen del comercio informal de películas en el Perú? En el año 2006 el Perú importó cerca de veinte millones de discos digitales vírgenes<sup>26</sup>. Se estima que el uso legal de estos discos no supera los cinco millones al año. Según la International Intellectual Property Alliance el Perú en el año 2005 copió alrededor de 10 millones de DVD de manera clandestina destinados al mercado de películas piratas<sup>27</sup>. Si cada película pirata se vende a promedio de cuatro soles esto significa un volumen bruto de ventas a nivel minorista cercano a los 40 millones de soles al año.

¿Cuánto gana un vendedor minorista por película? El costo de producir una película pirata se puede desagregar así: cincuenta céntimos el disco digital virgen (DVD), diez centavos la fotocopia a color de la carátula y veinte centavos el estuche de plástico. Hay que agregarle un sol, digamos, por el costo de obtener el original, y unos setenta céntimos por el copiado, local y mano de obra. Todo suma 2.50 soles. El vendedor minorista paga unos tres soles por cada película. Es decir, el mayorista gana un promedio de cincuenta céntimos por película. En diez millones de discos, la ganancia de los mayoristas podría situarse alrededor de los cinco millones de soles, quizás dividido entre unos tres, cinco o diez mayoristas divididos por rubros de especialización. Por un lado los que traen películas de Hollywood, los especialistas en

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<sup>26</sup> Comunicación personal de un funcionario de Indecopi.

<sup>27</sup> Anexo 5. p.9.

cine latinoamericano y/o europeo, los importadores de porno, etc.

Si cada película se vende a cuatro soles en promedio, entonces cada vendedor gana un sol por DVD. Entonces, ¿de cuantos micro-comercializadores podemos estar hablando? En el mercado de Polvos Azules, uno de los más grandes de Lima, hay unos 200 puestos que venden películas piratas. Podemos hacer un poco más de ficción numérica. Con un sol de ganancia por película un vendedor ambulante para ganar un poco más del sueldo mínimo (que es 550 soles mensuales) tendría que vender mínimo unas 600 películas al mes o unas veinte diarias para cerrar el año con unos siete mil discos que suman 28 mil soles de ventas para los doce meses. Si dividimos el número de discos que estimamos se producen y venden al año (diez millones) entre los siete mil discos por vendedor nos da un aproximado de 1,400 vendedores minoristas. Las cifras reales no deben estar muy lejos de este cálculo.

Me contaba Pablo Huamán (nombre ficticio), un frecuentado vendedor de películas clásicas y filmes de arte que tiene su puesto en Polvos Rosados en Surco, que los originales los compra por Internet (usualmente a Amazon) o los importa de España, México o Argentina en versión subtitulada. Estos filmes especializados no tienen una vida corta de mucha demanda sino más bien una mucho más larga de baja intensidad. Esto lo obliga a recargar cada disco con un sobreprecio que pone el precio del DVD en siete soles. Le pregunté cuántas copias sacaba por ejemplo de una película de Goddard o de un clásico como Ciudadano Kane. Me respondió que entre cien y ciento-cincuenta copias lo que le permitía una ganancia, en este



primer tiraje, entre 350 y 500 soles. ¿En cuánto tiempo se venden?, le pregunté. Así me respondió:

"Eso demora, pueden ser seis meses, pero se venden porque siempre hay compradores para un film de Orson Wells. Hay muchos jóvenes que les gusta el buen cine y también estudiantes de cine o de ciencias de la comunicación que no tienen otra manera de ver estas películas y entonces vienen a verme porque saben que yo las tengo."

No son pocos los casos de películas de interés artístico que por la manera en que opera el circuito comercial de estrenos cinematográficos estas salen muy pronto de cartelera. A veces son retiradas a la semana siguiente del estreno y aquel espectador que no la pudo ver solo puede conseguirla vía el mercado pirata.

La comercialización de las películas piratas es una actividad tan normal y extendida que me atrevería a decir que tiene imagen pública de legalidad. Es decir, no se vende bajo la mesa, ni a escondidas, sino abiertamente delante de los ojos del público y de las autoridades. En el Perú (igual como sucede en el gran mercado de Tepito en ciudad de México y en los puestos de mercado en todo Brasil) las películas piratas se ofrecen al público en puestos de mercado, galerías comerciales, kioscos de periódico, esquinas de tráfico vehicular importante, y hasta con servicio de despacho a domicilio. Más aún, en muchas galerías comerciales - como Polvos Azules y Polvos Rosados - te emiten, sin problema, un recibo por la compra de un DVD pirata. Tan aceptada está la circulación de estos DVDs que en noviembre del 2005 el presidente

Lula de Brasil reconoció haber visto en el avión presidencial el film "Dos Filhos de Francisco" que aún no había salido al mercado en versión DVD. Más aún, en todas las líneas de autobús interprovinciales del Perú se pasan en la pantalla de TV durante el trayecto películas en DVD que tienen origen informal. Las razones detrás de esto son el precio de un film pirata y la falta de control, pero también la enorme variedad de títulos que los mercados informales ofrecen.

Podría sostenerse que los vendedores de discos piratas no venden contenidos sino su tiempo y los servicios de copiado de la misma manera que los negocios de fotocopiado venden el suyo. La diferencia está en que se adelantan al consumidor adivinando por donde va a ir la demanda, y van copiando las películas por anticipado para entregarlas en el momento mismo del pedido. De alguna manera es lo mismo que hacen los vendedores de fotocopias de separatas académicas en las universidades. Aunque también es verdad que para el vendedor informal una película que está por estrenarse tiene un valor agregado y en esa medida sí vende contenidos. Y por eso por ellas pagan un poco más que por una que se estrenó hace algún tiempo. Aunque el precio al público no sea distinto entre una y otra película, sí venden muchas más copias de un film que está entrando a cartelera.

La salida de las películas a las calles en versión pirata antes del estreno en salas, ha obligado a las distribuidoras de películas a modificar sus patrones de estreno en salas con salidas mundiales simultáneas, a acortar sus ventanas de exhibición, a estrenar con muchas copias para recoger taquilla rápido (lo que se conoce

como "fast turnover"), y a intensificar las campañas anti-piratería. Los reajustes en la manera de operar el negocio ha tenido resultados positivos en la taquilla cinematográfica. El resultado es la globalización del negocio de distribución y exhibición que busca también aprovechar la tecnología para adelantarse a la piratería.

Entonces, ¿pierde Hollywood dinero con la piratería? La industria cinematográfica norteamericana en su conjunto (que se estima constituye el 85% de la producción mundial) facturó en el mundo 42.6 mil millones de dólares en el año 2006 lo que constituye un incremento del 8% en relación al año anterior<sup>28</sup>. Alrededor del 18% de esta cifra corresponde a ingresos que provienen de exhibición en salas cinematográficas y el 45% a ingresos de alquiler y venta de DVDs. El resto de los ingresos corresponde a 25% por ventas a televisión y 12% por operaciones de pay-per-view. A inicios de la década de los ochenta estos porcentajes habían sido exactamente inversos: el 50% de los ingresos de las productoras provenía de los estrenos en salas<sup>29</sup>. Estos datos nos permiten ver con claridad la dirección en que se mueve el consumo de películas en el mundo y de donde vienen las utilidades de las grandes corporaciones del entretenimiento cinematográfico. Si bien es verdad que, como sucede en otras actividades, el consumo cinematográfico se ha desplazado hacia los espacios privados en desmedro de los espacios públicos, es más verdad aún que no es que tanto más gente vea películas en DVD en casa sino que los márgenes de ganancia en cada DVD original que se vende son enormes,

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<sup>28</sup> Anexo 6. HOLLINGER, Hy. *MPA Study: Brighter picture for movie industry*, The Hollywood Reporter, June 15, 2007.

<sup>29</sup> Ver cuadro 1. (p.18 de este texto).

mucho mayores que los que rinde la exhibición en salas. El costo de fabricación no debe exceder el dólar y precio de venta en estreno oscilan alrededor de los cuarenta dólares. Claro que los costos del distribuidor y del minorista son importantes, pero el margen de ganancia es varias veces mayor al que se obtiene por las exhibiciones alternativas.

En el caso particular de la música es sabido que antes de la llegada de la piratería el principal ingreso de las corporaciones de la música era la venta de discos y los conciertos eran una actividad promocional para la primera. Hoy ese esquema de negocio se ha invertido. Las disqueras ya no hacen sus utilidades principales con la venta de discos sino vía conciertos, licencias, merchandising, etc. Como dice el guitarrista de Anthrax, una banda "hardcore" norteamericana, "el CD es el menú y el concierto es la cena."<sup>30</sup> Por eso las nuevas bandas y cantantes de la escena rockera contemporánea llegan hasta la repartición gratuita de discos como lo hizo hace unos meses el cantante Prince en Londres. El éxito de esta movida de marketing fue enorme. Nunca antes tuvo Prince tantos asistentes como los que pagaron entrada a su siguiente concierto.

Las productoras de Hollywood reclaman que la piratería de películas los llevó a perder en todo el mundo en el año 2005 unos seis mil millones de dólares (estimado por la MPAA<sup>31</sup>). El 20% de esas pérdidas ocurren en los EEUU y la diferencia en el resto del mundo. También resulta

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<sup>30</sup>SANDALL, Robert. *Off the record*, Prospect magazine.  
[http://www.prospectmagazine.co.uk/article\\_details.php?id=9735](http://www.prospectmagazine.co.uk/article_details.php?id=9735)

<sup>31</sup> *The cost of movie piracy*. MPAA.  
<http://www.mpaa.org/leksummaryMPA%20revised.pdf>

interesante que el 62% de dichas resultan de piratería de DVD's y 38% de piratería por Internet. Sin embargo ese mismo año, como acabamos de ver, la industria cinematográfica norteamericana incrementó sus ingresos mundiales en 8% (10% en el mercado norteamericano y 5% en el resto del mundo) respecto a la performance económica del año anterior. Este último dato si bien no desbarata "per se" el reclamo de las productoras de Hollywood en relación a lo que pierden - o dejan de ganar - por culpa de la piratería, sí nos revela por lo menos que a pesar de la piratería el negocio del cine norteamericano sigue creciendo.

Más aún, sugiero que los resultados en azul del negocio cinematográfico de Hollywood en el mundo actual tienen mucho que ver con la misma existencia de la llamada piratería. Primero, como ya lo dije, porque no necesariamente quien compra películas piratas es un comprador potencial de películas originales o un asistente potencial a una sala de cine. Y segundo porque el crecimiento exponencial del comercio informal de películas ha ampliado de una manera importante la oferta y diversidad de películas a todos los sectores sociales y en especial a los que habían quedado fuera de este entretenimiento tras la aparición de los caros multicines y los altos precios de las películas en DVD originales. El cine pirata llegó para rescatar a este sector. Este simple hecho funciona como un efecto multiplicador de mercado. Más gente ve más películas, más se habla de ellas y por tanto se genera un comentario boca a boca que alimenta la asistencia a las salas de cine. Algunos ejemplos concretos como el reciente caso del estreno en los EEUU del documental "Sicko" de Michael Moore podrían

demostrar que la piratería y difusión por Internet del film antes del estreno no necesariamente perjudica la taquilla<sup>32</sup>.

No olvidemos que hasta mediados de los setenta (antes del Betamax y de los multicines) el mercado cinematográfico peruano superaba los treinta millones de entradas al año<sup>33</sup>. Con la aparición de los nuevos complejos cinematográficos los precios de las entradas se multiplicaron por tres y por cuatro y la asistencia al cine bajó a mediados de los noventa hasta menos de diez millones de entradas al año<sup>34</sup>. Hoy, en plena era de la piratería, la asistencia de espectadores a salas de cine en el año 2007 ha crecido y se acerca a los quince millones de boletos vendidos<sup>35</sup>. La cifra más alta de los últimos años.

#### Cómo opera la piratería

Pero no todo el universo que se abre con las nuevas tecnologías digitales e Internet tiene un origen tan, llamémoslo así, sano. ¿Cómo llegan al mercado las películas que aún no han sido estrenadas? Para que esto suceda es necesario un "topo" que trabaje dentro del sistema para que se "robe" el film durante unas horas en alguno de los cientos de laboratorios cinematográficos

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<sup>32</sup> *Hollywood hates pirates, but can it use them?*. CNet News. [http://news.cnet.com/Hollywood-hates-pirates,-but-can-it-use-them/2100-1026\\_3-6194649.html](http://news.cnet.com/Hollywood-hates-pirates,-but-can-it-use-them/2100-1026_3-6194649.html)

<sup>33</sup> PROTZEL, Javier. *Grandeza y decadencia del espectáculo cinematográfico*, Contratexto No.9, 1985. p.118.

<sup>34</sup> Comunicación personal en tanto presidente de la Asociación de Cineastas del Perú.

<sup>35</sup> Comunicación personal.

donde se hacen los acabados de post-producción (multicopiados) en los EEUU o en el mundo. Lo que hace este ladrón digital es una copia del film, luego subirla a Internet para así ponerla a disposición de las maquinarias del comercio informal. Esta práctica obviamente es delictiva pues se apropia de un contenido audiovisual que todavía no ha sido hecho público.

Otra forma que tienen los comerciantes informales para obtener una película es grabarla con pequeñas cámaras de alta calidad en proyecciones privadas o públicas. El siguiente paso es el mismo: subir la película a la Web o realizar un multicopiado digital para venderlas en los mercados informales mayoristas. El problema de este medio de pirateo es que por lo menos revela una falta de respeto por la calidad del film ya que el grabado ni la copia pueden ser óptimos. En algunos casos hasta podemos ver la sombra de un espectador o escuchar voces de la sala donde se grabó la película. La tercera manera de acceso a películas para alimentar el mercado informal es lo que yo llamaría el método legal. Este consiste en adquirir en el extranjero o en tiendas de Internet copias originales de películas que no se han estrenado en el país, no se van a estrenar o ya salieron de la distribución hace algún tiempo. En esta categoría entra no solo el cine independiente, las películas que las distribuidoras no consideran comerciales y por tanto no las estrenan, el cine latinoamericano, europeo o asiático que no logra espacio en el circuito comercial, y por su puesto el cine clásico de siempre. Si no existiera este último recurso el público ávido de buen cine o de un cine diferente al que ofrece el circuito comercial estaría privado de acceso a un universo audiovisual que enriquece

muchísimo a la comunidad ávida de cultura. Hay que preguntarse si no hay que defender este mercado informal levantándole el estigma de espacio delictivo.

Quiero hacer mención a la diferencia que existe entre la legislación actual sobre propiedad intelectual en las industrias de entretenimiento (en el caso particular del cine) con aquella que existe en el campo de la salud. Todos sabemos que la industria farmacéutica tiene derecho a un monopolio y exclusividad de producción y comercialización de un medicamento por un tiempo que oscila alrededor de veinte años y que luego pasa a dominio público. Ese tiempo de exclusividad es necesario para financiar los gastos de investigación y desarrollo de los laboratorios. Pero la sociedad y los Estados también reclaman el derecho a un producto farmacéutico semejante a un precio económico en el mercado: el famoso genérico. Es por el bien de la sociedad y el derecho de acceso a una salud para todos a costos bajos. Aquí aparece la punta de una madeja interesante. En igual sentido a lo que sucede en la industria farmacéutica podemos argumentar en relación al tema de la legislación sobre copyright de las industrias culturales. Es por el bien de una cultura libre y para todos que tenemos el derecho y la obligación de reclamar que las películas debieran pasar a dominio público (el derecho a los genéricos fílmicos) luego de unos pocos años de exclusividad monopólica para el productor. Este tiempo no deberían ser mayor al tiempo de vida económica útil de un film que estimo son unos diez años luego de estrenadas las películas.



## 5. EL DERECHO DE AUTOR, EL COPYRIGHT Y LA PROPIEDAD INTELECTUAL. EL PARADIGMA 200 AÑOS DESPUÉS.

Hoy la gran mayoría de personas probablemente piensan que los principios que sustentan el concepto de propiedad intelectual corresponden con los de propiedad de un bien material. Es decir, una creación artística, una obra literaria o un film son propiedad del autor (o de la corporación que lo produce, publica o financia) de la misma manera que lo es para un individuo la propiedad de un auto, una casa o acciones en la bolsa. Pocos saben que esto no siempre fue así y que el concepto de propiedad intelectual, en su origen, era otorgado por el Estado por un tiempo muy limitado para incentivar la producción autoral sin afectar el interés de la sociedad que se beneficia cuando la obra pasa a dominio público. Este aspecto del copyright ha sido deliberadamente olvidado por quienes han actuado de espaldas al bien común privilegiando sus intereses particulares.

Luego de la Convención de Berna de 1979 para la protección de las obras literarias y artísticas la legislación sobre propiedad intelectual se ha consolidado y extendido a casi todos los Estados del planeta hasta adquirir una suerte de estatus de legitimidad absoluta. Si bien la autoría (no entendida como propiedad) existió detrás de toda creación desde que el hombre(s) realizó su primera creación, no es hasta que la tecnología hace posible la reproducción de textos que los Estados norman el copyright en tanto derecho a la protección y exclusividad para publicar, editar, reproducir, traducir, adaptar y/o copiar una determinada creación. De la mano con el nacimiento de los Estados Modernos y luego de que

Gutenberg inventara la imprenta hacia fines del siglo XV, por primera vez se plantea el concepto de copyright, aunque en términos bastante diferentes a lo que hoy conocemos. Durante el reinado de María Tudor en el siglo XVI, Inglaterra otorga el primer derecho exclusivo de publicación de libros a aquellos libreros que se agrupan en torno al "Stationers Company"<sup>36</sup>, una asociación de editores que era controlada por la corona. El precio que pagaban estos libreros a cambio por el derecho monopólico de edición era la censura política. Si bien los autores de los libros no estaban específicamente mencionados en la legislación eran importantes beneficiarios de esta en la medida que por primera vez pasaban a recibir una remuneración de los libreros por la publicación de sus escritos. A cambio los autores debían darle al editor un derecho exclusivo de publicación. Recién entonces la corona aseguraba que nadie pirateara ni publicara ningún libro fuera del marco que se organizaba detrás del "Stationers Company". Esta norma demuestra dos principios fundacionales del derecho de copyright tal como se presentó originalmente en Inglaterra (y el mundo): primero, el copyright emana de una decisión política del Estado y no de un derecho intrínseco o natural del autor o editor del libro; y segundo, el derecho monopólico de venta del libro significa que el editor es libre de determinar el precio de la publicación sin consideraciones a criterios de mercado.

El concepto original de copyright tal como se entendía hacia el año 1710 en Inglaterra implicaba una restricción

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<sup>36</sup> VAIDHYANATHAN, Siva. *Copyrights and Copywrongs: The Rise of Intellectual Property and How it Threatens Creativity*, New York: New York University Press, 2003. p.37.

muy específica: nadie, excepto el editor del libro, podía copiar o duplicar dicha obra mientras este estuviera dentro del plazo legal que otorgaba la corona británica. Esta restricción generó mucho malestar entre los editores "independientes" que en las colonias de Norte-América se oponían al control político de la corona inglesa. Hacia finales del siglo XVIII se incrementó el fastidio en los consumidores por los precios que los editores ponían a los libros en un mercado sin competencia. Por ello, luego de evaluar los beneficios y perjuicios de mantener una censura política y enfrentarse a las necesidades de acceso a la cultura y el conocimiento que tenía la población, el parlamento Inglés dictaminó en 1790 un decreto conocido como el "Statute of Anna"<sup>37</sup>. Esta norma señalaba que toda obra publicada tenía un plazo de "copyright" de catorce años que podían ser renovados, por única vez, catorce años adicionales si el autor aún estaba con vida. Luego de terminado este periodo de copyright la publicación pasaba a ser derecho de dominio público y por lo tanto cualquier editor podía publicarla libremente. Para las publicaciones anteriores a esta fecha se establecía un periodo único de copyright de veintiún años. Esta norma fue la primera que estableció un plazo para el derecho exclusivo de publicación y copiado de una obra. Y, muy importante, también fue la primera norma que establecía el derecho de dominio público.

Hacia comienzos del siglo XIX, cuando en los EEUU se discutía el tema del copyright en el marco de la naciente constitución americana, tanto Thomas Jefferson como James

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<sup>37</sup> Ibid. p.25, p.40.

Madison intercambiaron sesudas reflexiones sobre los dos conceptos primordiales detrás de toda creación literaria: idea y expresión. Esta dicotomía será clave para entender la fundamentación originaria de la legislación sobre el copyright en los EEUU. Jefferson opinaba desde Paris, en medio de esos años cargados del espíritu libertario de la revolución francesa, argumentando que las ideas esgrimidas por una persona eran por naturaleza libres y nadie podía restringir su uso o difusión. En 1813 escribió:

"Si la naturaleza ha hecho algo que es nada susceptible de ser propiedad exclusiva, es la acción de pensar, la idea. El individuo solo la puede poseer exclusivamente mientras la guarde para él mismo; pero en el momento en que la divulga, esta queda en la posesión de todos y el receptor a su vez queda impedido de desecharla".<sup>38</sup>

Más tarde el mismo Jefferson haría referencia al error de aquellos que entienden el copyright como un derecho semejante a la propiedad física. Él afirmaba que ni las ideas ni las expresiones eran susceptibles de la escasez cómo sí lo es la propiedad de un bien material. Sin embargo, para Madison, la expresión, es decir la manera creativa y particular en que esas ideas se manifiestan, sí podía tener un carácter restringido con el único objetivo de darle al autor y al editor del texto literario la posibilidad de gozar una recuperación económica y así fomentar la creación artística, científica o académica. Cuando Madison presentó los conceptos de copyright y patente a la asamblea

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<sup>38</sup> Citado en Ibid. p.23.

constituyente argumentó que eran uno de los pocos actos de gobierno donde el interés privado coincidía con el interés público. El no hizo referencia a que el copyright tenía algo que ver con el concepto de propiedad. Más bien subrayó el carácter de "progreso" y "aprendizaje" que ambos conceptos tenían, haciendo referencia a virtudes clásicas republicanas tal como la educación y la ilustración. Para Madison el copyright era sobre todo un aliciente para la creatividad y no un pago por un derecho adquirido. Con esto quiero subrayar que en ese entonces el concepto de copyright no tenía el mismo sentido que tiene hoy. Pero el carácter de exclusividad para el comercio que otorgaba el copyright inquietaba a alguna gente como Jefferson. La mente precursora de este, el mayor interprete norteamericano del pensamiento liberal de John Locke, llamó la atención sobre el peligro que implicaba que los monopolios se extiendan en modo y tiempo afectando de manera importante los intereses libres del mercado, la sociedad y el individuo.

A lo largo de todo el siglo XIX el tema del copyright y su contraparte el dominio público siguió agitando los claustros legislativos y políticos, las librerías, las reuniones de escritores y los centros académicos. Hacia la segunda mitad del siglo connotados escritores como Mark Twain se compraron primero el pleito a favor de la libertad de publicar, adaptar, copiar, etc. Pero luego, cuando sus libros empezaron a ser publicados por editores piratas y su fama cruzó fronteras, preocupado por el futuro económico de su familia, Twain se convirtió en uno de los más importantes defensores de extender el copyright a perpetuidad. Al otro lado del Atlántico, en Francia, Victor Hugo libraba similares batallas en el

campo legal por los mismos intereses. Mientras ellos eran solo lectores (lo que en inglés se llama "copyright poor") demandaban derecho libre a la cultura y cuando se convirtieron en escritores famosos con muchos títulos y publicaciones ("copyright rich") empezaron a demandar el derecho exclusivo y perpetuo al copyright. Dice un antiguo refrán castellano: la vaca no recuerda cuando fue ternera. Esto explica porqué los EEUU se negaron durante años a firmar el Convenio de Berna para la Protección de las Obras Literarias y Artísticas y recién lo hicieron en 1889.

### El copyright y el cine

Con la llegada del cine el tema del copyright adquirió una nueva dimensión. Nuevas controversias y disputas judiciales se desataron principalmente en los EEUU donde este fascinante invento se desarrollaba aceleradamente. ¿Quién puede imaginar hoy que Hollywood tiene su partida de nacimiento en la piratería? En 1909 William Fox, un joven distribuidor independiente que trabajaba en Nueva York, se muda a la costa oeste de los EEUU para fundar la Twenty Century Fox motivado por una razón muy concreta: quería operar lejos del alcance de la Compañía de Patentes de Películas (en inglés MPPC) que en Nueva York Thomas Edison había formado para cobrar las licencias por uso del proyector de cine de su invención y de las películas que distribuía. La compañía de patentes de Edison ejercía por la fuerza los derechos que la ley de Nueva York le concedía mediante un Trust que él manejaba. En su libro "Free Culture" Lawrence Lessing nos lo relata así:

"Con el país experimentando una tremenda expansión en el número de cines, la Compañía de Patentes de Edison reaccionó contra el movimiento independiente creando una subsidiaria fuertemente armada, conocida como la Compañía General del Cine, para bloquear la entrada de independientes sin licencia. Con tácticas de coacción que se han hecho legendarias, la subsidiaria confiscó equipo ilegal, suspendió la continuidad del suministro de producto a los cines que mostraban películas sin licencia, y monopolizó de hecho la distribución con la adquisición de todos los mercados estadounidenses de películas, excepto por uno que era propiedad del independiente William Fox, quien desafiaba al Trust incluso después de que su licencia fuera revocada."<sup>39</sup>

Durante esos años iniciales del cine el tema del copyright también involucró a David W. Griffith, el director de "Nacimiento de una Nación", uno de los grandes clásicos del cine mudo. El derecho exclusivo del copyright no estaba muy claro en la legislación en lo que se refería a las adaptaciones de obras literarias a otro medio tan nuevo como el cine. Bastaba cambiarle el título, o modificar algún aspecto de la historia para que ya se considerara que la idea podía ser la misma pero la expresión era otra. En este tipo de argumento se basó Griffith para producir una serie de películas silentes inspiradas o adaptadas de obras literarias escritas por

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<sup>39</sup> LESSIG, Lawrence. *Free Culture: The nature and future of Creativity*, New York: Pinguin Books, 2005. p.54.

otros autores con copyright vigente<sup>40</sup>. Los juicios no fueron pocos. Pero como las películas se producían en tiempos muy cortos y entraban y salían de cartelera muy rápidamente los productores (que eran también realizadores) ignoraban olímpicamente el tema de los derechos del autor de la obra literaria en la que inspiraban sus filmes. En esos años los productores peleaban por una legislación que los beneficiara doblemente. Exigían baja protección y libertad de uso de las obras literarias e historias que ellos pudieran llevar al cine, y a la vez, alta protección para sus filmes terminados. Porque no olvidemos que en esos años nada digitales tampoco era muy difícil tomar una película y copiarla en un laboratorio independiente (entiéndase clandestino). Paradójicamente fue el propio Griffith (quien ganó un juicio por el derecho libre de adaptar una historia de Twain) que años más tarde terminó siendo un paladín de la lucha cerrada contra los "remakes" y el derecho a usar historias de sus películas por otras producciones.

### Orígenes de Disney

Otra historia significativa de cómo han cambiado los tiempos, y las posiciones frente al tema piratería, tiene que ver con los orígenes del legendario Walt Disney<sup>41</sup>. En 1928 el genio de la animación realizó "Steamboat Willie",

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<sup>40</sup> VAIDHYANATHAN, Siva. *Copyrights and Copywrongs: The Rise of Intellectual Property and How it Threatens Creativity*, New York: New York University Press, 2003. pp.96-105.

<sup>41</sup> LESSIG, Lawrence. *Free Culture: The nature and future of Creativity*, New York: Pinguin Books, 2005. pp.22-24.



el primer film sonoro de dibujos animados donde el protagonista era Mickey Mouse. El film fue un éxito tremendo. Sin embargo pocos saben que el título fue sacado de una conocidísima parodia fílmica de Buster Keaton llamada "Steamboat Bill" y que la música que utilizó Disney estaba inspirada en la misma canción que inspiró a Keaton. En esta historia Disney no pagó derechos a nadie. Como tampoco lo hizo en ninguna de las adaptaciones de los hermanos Grimm ("Blanca Nieves" y "La Cenicienta") ni a tantos otros autores que si hoy vivieran sí tendrían derechos que cobrar. En esos años las obras pasaban a dominio público tan solo veintiocho años después de publicadas.

Una más sobre Disney y la piratería: hacia los inicios de 1920 en Middletown, Nueva York, un emprendedor artesano llamado René D. Grove fundó la Performo-Toy Company para la que fabricó unos 35 juguetes distintos. Uno de ellos era un ratón de madera llamado Micky, el que fue patentado en 1926. Dos años más tarde Walt Disney tomó la idea del personaje para su película de animación. Luego del rotundo éxito del film, Disney sacó a la venta un juguete llamado Mickey Mouse el cual se vendía en Nueva York en las mismas tiendas del Micky de Performo. Disney demandó a la Performo-Toy Co. por copiar el muñeco. La poderosa productora hollywoodense ganó el juicio y la juguetería quebró.

Los estudios Walt Disney han demostrado tener tanta influencia sobre los gobiernos de los EEUU que cuando se discutía la extensión de los términos de la ley de copyright en los EEUU se afirmó lo siguiente:

"La película (Steamboat Willie) ha sido el centro de atención en relación a la Ley de Extensión del Copyright de 1998 aprobada en los EEUU. *Steamboat Willie* ha estado a punto de entrar a dominio público varias veces. Pero cada vez la protección de los periodos del copyright ha sido extendida. Mucha gente sostiene que estas extensiones son la respuesta del congreso de los EEUU a las presiones (lobbys) de los Estudios Disney."<sup>42</sup>

Hasta 1909 solo los escritores en tanto personas naturales podían reclamar derechos de autor sobre las obras que ellos habían escrito. En 1909 Griffith impulsa un cambio en la legislación que será determinante para la historia actual del copyright y la propiedad intelectual: el copyright corporativo<sup>43</sup>. A partir de entonces una persona jurídica puede poseer el copyright de una obra literaria, musical o fílmica, desplazando al autor de la misma. Este lo único que aún mantiene intangible es su derecho intelectual o moral a su creación.

A mediados del siglo XX el término y sentido del copyright se universalizó en el campo de la cinematografía como el derecho y la propiedad intelectual de los productores de las películas en perjuicio de los derechos de los verdaderos autores del film: el director, el guionista y el compositor musical. En los últimos treinta años las legislaciones sobre copyright fueron ampliando las restricciones a la libertad de uso

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<sup>42</sup> Steamboat Willie.

[http://en.wikipedia.org/wiki/Steamboat\\_Willie](http://en.wikipedia.org/wiki/Steamboat_Willie)

<sup>43</sup> VAIDHYANATHAN, Siva. *Copyrights and Copywrongs: The Rise of Intellectual Property and How it Threatens Creativity*, New York: New York University Press, 2003. pp.100-101.

por terceros hasta incluir una larga lista de prohibiciones además de extender de manera importante el periodo de uso exclusivo por parte del tenedor del copyright. Por ese mérito el copyright otorga en la actualidad la exclusividad no solo para copiar una publicación, una pieza musical, una obra teatral o un film, sino también para distribuir, adaptar al mismo u otro medio, modificar, traducir, montar en escena, etc. Los plazos de duración de las licencias de copyright antes que entren a dominio público también se han extendido de manera escandalosa: ahora esta vence setenta años después de fallecido el autor; y para una corporación el copyright tiene una vigencia de ciento veinte años después de creada la obra o noventaicinco años después de su publicación.

Han sido las corporaciones de la industria cinematográfica de Hollywood (MPAA - Motion Pictures Association of America) los grandes lobistas de la promulgación de leyes más allá de sus fronteras que redefinen el concepto de copyright como un derecho patrimonial inherente a los productores. El concepto, tal como lo señala la ley peruana sobre derechos de autor (DL 822, del 23 de abril de 1996)<sup>44</sup>, está íntimamente ligado al concepto norteamericano: se presume, salvo que el contrato entre las partes diga lo contrario, que el tenedor de los derechos patrimoniales (copyright) de una obra audiovisual es el productor de la misma y no los autores/creadores.

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<sup>44</sup> Decreto Legislativo 822.

[http://www.wipo.int/clea/docs\\_new/pdf/es/pe/pe003es.pdf](http://www.wipo.int/clea/docs_new/pdf/es/pe/pe003es.pdf)

La pregunta que subyace entonces es ¿por qué los Estados han optado por legislaciones que favorecen a unas industrias y corporaciones en detrimento de los intereses de la sociedad? ¿Por qué las legislaciones sobre propiedad intelectual se van endureciendo, afectando y cerrando las posibilidades creativas que la tecnología permite? Un ejemplo de esto último tiene que ver con el Digital Millennium Copyright Act<sup>45</sup>, el marco de la nueva legislación sobre propiedad intelectual y usos electrónicos aprobada por el congreso de los EEUU y el presidente Clinton en 1998 que busca implementar los tratados firmados por la Organización Mundial de Propiedad Intelectual (en inglés: WIPO) firmada en Ginebra en 1996. Esta nueva legislación ha sido fuertemente apoyada por las industrias de software (entiéndase Microsoft) y por las industrias de entretenimiento (léase Hollywood), y rechazada por la comunidad científica y académica.

La nueva legislación pone fuera de la ley a todo aquel que desarrolle mecanismos electrónicos o programas o herramientas virtuales que permitan decodificar (operación conocida como "crackear") programas de computadoras o burlar mecanismos antipiratería insertados en las computadoras o en los DVDs. Lo más grave de todo esto es que el control y regulación de la circulación de la información cibernética ya no está en manos del Estado sino que ha pasado a manos de los productores de tecnologías (de software) en alianza con las industrias de contenidos (juegos de computadoras, música, películas, etc). Porque finalmente los enemigos históricos empiezan

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<sup>45</sup> The Digital Millennium Copyright Act.  
[http://es.wikipedia.org/wiki/Digital\\_Millennium\\_Copyright\\_Act](http://es.wikipedia.org/wiki/Digital_Millennium_Copyright_Act)

a unirse capitalizando de la oportunidad que le ofrece la alianza con el poder político. La corporación multinacional Sony, una de los mayores productores de tecnología digital del mundo, es ahora propietaria de la Metro Goldwyn Mayer, una de las mayores productoras de contenidos de Hollywood. Es decir, con una mano Sony fabrica maquinas que permiten duplicar un DVD y con la otra mano produce discos con bloqueo de copiado. La contradicción evidente entre la legislación dura y cerrada sobre propiedad intelectual que promueven las industrias de contenidos y las posibilidades de libertad en el flujo, movilidad y manipulación de la información que ofrece la tecnología digital se va intensificando y cerrando día a día.

Otro ejemplo de lo que el Digital Millennium Copyright Act ha legalizado: las corporaciones productoras de software de computación están autorizadas a bloquear y limitar los derechos del consumidor para una transacción comercial simple. Cuando uno compra un programa de computación, realmente no lo hace suyo. Hay tantas limitaciones y códigos secretos de uso que se parece más a un alquiler con condiciones restringidas que a una adquisición. Si uno posee dos computadoras personales (por ejemplo, una de mesa y una portátil) la mayor parte de los programas legalmente comprados solo te permiten operar en una de ellas. Para operar en tu segunda computadora debes desactivar el programa de la primera. Otro ejemplo es el tema del control de acceso a videos por regiones o zonas. ¿Han pensado lo que significa el tema zonal en los videos entre dos Estados que ya han firmado un tratado de libre comercio? Es decir, los peruanos no podemos ver los videos que se producen y

venden en los EEUU ni viceversa. ¿Cómo lo hacemos actualmente? Los DVDs codificados con zona 1 (exclusivos para los EEUU) los vemos en el Perú (zona 4) de forma ilegal con un reproductor de videos digitales chino que no respeta los acuerdos tecnológicos zonales. Si compras un Sony o un Panasonic no es posible ver un DVD comprado en los EEUU. Y si algún experto en tecnología de decodificación decide desarrollar un programa para que puedas ver esos discos en cualquier reproductor o computadora de cualquier zona del mundo (porque finalmente tú lo compraste, es tuyo y es tu derecho), inmediatamente esto los convierte (a él y a ti) en violadores del Digital Millennium Copyright Act sujetos de las sanciones correspondientes.

Pero felizmente no todos los países del mundo están aceptando esta situación irregular. En febrero de este año la corporación Microsoft de Bill Gates, la mayor empresa de software del mundo, fue multada por la Comunidad Europea con 1,400 millones de dólares por desafiar sanciones que le habían sido impuestas en el 2004 por llevar a cabo en Europa prácticas poco leales para la competencia en materia tecnológica. El comunicado oficial de la CE lo explicó así:

"(Microsoft)...ha violado las normas comunitarias de la competencia abusando de su cuasi-monopolio en los mercados de sistemas operativos para computadoras personales, con el fin de limitar la competencia en los mercados de sistemas operativos

para servidores de grupo de trabajo y de lectores multimedia." <sup>46</sup>

Lo que sucede es que lo que Microsoft hace está amparado por el Digital Millennium Copyright Act. Es decir en los EEUU se permite a una corporación tecnológica congelar información vital de sistemas operativos y el uso de códigos secretos (como si fueran patentes de dominio privados) para que ni la competencia ni los usuarios puedan crear, recrear ni operar la plataforma de un software a partir de un esquema de compatibilidad limitando así el libre derecho de la gente de acceder y nutrirse de desarrollos tecnológicos de otros. Esto ha llegado a extremos tales que las nuevas computadoras que se están probando en acuerdo con Microsoft podrían venir con un programa que detecta quiénes están viendo un video sin licencia, es decir una copia, y ser denunciados ante las autoridades competentes. Poco importa que esta puede ser una copia privada a la cual uno tiene derecho dentro de la ley existente. Con esta ley el "fair use" está bajo asedio<sup>47</sup>.

Habría que explorar el efecto que pueda tener el que los Estados sigan caminando en dirección a una sociedad de características orwellianas donde, por ejemplo, la ley te prohíbe sacar una copia de una película que has comprado en la tienda y luego compartirla con un amigo quien a cambio te da una que él también ha copiado.

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<sup>46</sup> European Union Microsoft competition case.  
[http://en.wikipedia.org/wiki/European\\_Union\\_Microsoft\\_antitrust\\_case](http://en.wikipedia.org/wiki/European_Union_Microsoft_antitrust_case)

<sup>47</sup> *Las consecuencias no deseadas: cinco años bajo la Digital Millennium Copyright Act.* Electronic Frontier Foundation.  
[http://w2.eff.org/IP/FTAA/5\\_Anos\\_de\\_la\\_DMCA,\\_eff\\_3.pdf](http://w2.eff.org/IP/FTAA/5_Anos_de_la_DMCA,_eff_3.pdf)

Increíblemente esta operación de intercambio tan sencillo, que solo significa compartir experiencias culturales y creativas con las nuevas herramientas tecnológicas que legalmente se venden, está prohibida en los EEUU y en la comunidad europea. Este es el caso específico del P2P (peer to peer) que ya he descrito que es el medio por excelencia donde los jóvenes se comunican e intercambian información cultural. Y si el amigo te quiere pagar el costo del soporte (el DVD) que él no pudo comprar, entonces la ley considera que le has vendido la película y eso es un delito que puede llevarte a la cárcel.

#### Copyleft y Creative Commons

En respuesta a la estricta y cerrada legislación que sobre copyright y propiedad intelectual se aprobó en la Convención de Berna de 1976 es que a mediados de los años ochenta se crea el concepto de *copyleft*<sup>48</sup> como un sistema o esquema de licencias donde el autor puede eliminar por voluntad propia algunas de las restricciones al uso por terceros de su obra con la única condición de que el trabajo derivado mantenga el mismo régimen de derechos de autor que el original. Por esto es que este tipo de licencias se les conoce como licencias recíprocas. El sistema de copyleft protege esencialmente el derecho y la libertad de otros de acceder y usar trabajos con este tipo de licencia. En un entorno no legal, el *copyleft*

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<sup>48</sup> Copyleft.

<http://es.wikipedia.org/wiki/Copyleft>



puede considerarse como opuesto al *copyright*. El espíritu de este nuevo concepto ha recorrido el mundo y hoy nadie pone en duda que el individuo tiene derecho al conocimiento y a los contenidos que circulan en la red como una manera de acortar la brecha de información, cultural y tecnológica que existe entre los países desarrollados ("copyright rich") y aquellos que pugnan por el derecho al conocimiento ("copyright poor").

Dentro del ámbito y espíritu del copyleft nace el "Creative Commons"<sup>49</sup> que es una forma concreta de registrar y operar una licencia de derechos autorales para una obra artística de manera personalizada. Es decir, el autor puede escoger para aplicar a su obra entre cuatro distintas modalidades de licencias, con sus posibles combinaciones, de propiedad intelectual. La primera es la que se conoce como RECONOCIMIENTO (en inglés: Attribution) que es ofrecer a terceras personas la posibilidad de distribución, copiado y exhibición de la obra siempre y cuando se muestren los créditos de la misma. Esta es definitivamente la más abierta de todas. La segunda modalidad es la que se conoce como NO COMERCIAL (Non-Comercial) que es similar a la primera pero restringiendo el uso comercial de la obra. La tercera variante se llama SIN OBRA DERIVADA (No Derivative Works) donde se limita a terceros el uso para crear un trabajo derivado. Y la última modalidad se llama COMPARTIR IGUAL (Share Alike) donde se da licencia a terceros para modificar y distribuir la obra pero bajo la misma licencia que tiene el material original.

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<sup>49</sup> Creative Commons.

[http://es.wikipedia.org/wiki/Creative\\_Commons](http://es.wikipedia.org/wiki/Creative_Commons)

La sociedad global ha encontrado, en estas nuevas formas de licencias de propiedad intelectual, maneras de responder al modelo de copyright impuesto en beneficio propio por las corporaciones mediáticas en perjuicio del derecho de acceso a la cultura e información que tiene la sociedad en general. El bien común hace 200 años estaba resguardado por el balance entre el derecho a un periodo limitado de exclusividad y el paso posterior al dominio público de una obra. Este equilibrio de intereses se ha perdido hoy.

### El futuro

A pesar de todas las presiones políticas que ejercen las corporaciones del cine, la revolución tecnológica y el comercio informal, que se han potenciado de la mano de Internet, las están obligando a reinventar el negocio. Ya no es un enigma la manera en que se va a reformular en un futuro cercano el comercio de películas digitales. El camino se ha ido despejando y consolidando en dirección a Internet. En un inicio, hace unos diez o quince años, la Web era el enemigo número uno del cine. Por esa vía empezaron a llegar las primeras películas digitales piratas. Pero hoy ya se ve con claridad que pronto el Internet será el gran aliado del cine ya que permitirá despenalizar la libre circulación de películas. El disco DVD y el reciente Blu-ray tienen sus días contados ya que lo más probable es que sean sustituidos por soportes de memoria dura, sin movimiento ni desgaste. Estos a su vez serán compartidos vía señales inalámbricas. Por ejemplo: una película es descargada de la Web directo al disco duro, luego este archivo se reenvía a un celular, a un

Ipod, a un receptor de televisión o a cualquier otro soporte con memoria.

La manera en que se financiará esta nueva forma de comercio audiovisuales vía la Web, al igual que en la televisión de señal abierta, no pasa por cobrarle al consumidor sino al anunciante de publicidad en el portal. Este es el mismo sistema que han implementado Yahoo y Google, los gigantes cibernéticos que dan servicios de información libre de costo. Otras formas podrán inventarse conforme la tecnología dé paso a nuevas herramientas. Para que este novísimo sistema de comercio digital sea realidad será necesario que una película de largometraje pueda ser descargada en un tiempo razonablemente corto por lo que solo se está esperando que la banda ancha adquiera suficiente velocidad de transmisión de datos y se inventen eficientes protocolos de compresión.

En todo caso, el cambio que se viene es inminente y el consumidor del audiovisual será ciertamente el gran beneficiado pues todo parece indicar que el comercio digital de películas se dirige hacia el acceso personalizado, ilimitado, gratuito y sobre todo legal, tal como demanda la pujante sociedad Internet.

## 6. CONCLUSIONES Y RECOMENDACIONES.

Los desencuentros entre las posiciones de los consumidores, vendedores, productores y fabricantes no son nuevos y han existido desde que apareció el comercio como un medio de intercambio que permite a dos o más partes satisfacer sus necesidades materiales. Este es el normal enfrentamiento de intereses existente en toda transacción comercial. Sin embargo, la guerra desarrollada contra la piratería de películas principalmente por los estudios cinematográficos de Hollywood es única en varios aspectos. Es una guerra no solo contra un grupo de comerciantes que aparentemente se han apropiado de manera ilícita de un producto intangible para hacer negocio, sino también contra aquellos que la consumen y que reclaman el derecho de hacerlo.

Nunca antes el concepto de libre mercado imperante y el desarrollo de nuevas tecnologías en el mundo había colisionado, de manera tan explícita y extendida, como con el concepto de copyright y de propiedad intelectual. Nunca antes un producto de naturaleza intangible había sido tecnológicamente posible duplicarlo a calidad tan alta, a costos tan bajos y por medios tan sencillos al alcance de cualquiera. Nunca antes el ingreso a una nueva era productiva (de la sociedad industrial a la sociedad de la información) había generado tantas redefiniciones y contradicciones en materia legal, ética, tecnológica, económica y cultural, como en el caso de la piratería de películas.

Hemos mencionado a lo largo de este trabajo la importancia que tiene la tecnología en el tema de la

piratería de películas. Así mismo, para entender el problema en su compleja dimensión hemos expuesto aspectos de naturaleza legal al abordar la historia del copyright. También hemos subrayado el papel que han jugado los intereses de las corporaciones en perjuicio los intereses de la sociedad por la posición que han ido tomando los Estados en beneficio de los primeros. Igualmente hemos hecho referencia a cómo opera y por qué existe la piratería, y nos hemos explayado sobre el derecho del individuo - propiciado por la sociedad Internet - a tener voz en la oportunidad y forma en que se accede a la información y cultura. Pero cuando uno se pregunta qué consecuencias tiene para la sociedad el seguir penalizando el libre uso de las tecnologías digitales para copiar, compartir y/o modificar un producto de naturaleza cultural con copyright hay algunos puntos sobre los que vale la pena reflexionar.

Las campañas antipiratería promovidas en el mundo, y en el Perú en particular, por las distribuidoras de cine norteamericanas (con el apoyo de Indecopi) inciden sobre el aspecto delictivo de este negocio tipificado como tal en la medida que viola la ley sobre derechos de propiedad intelectual. Todo se resume en una frase: es un delito copiar, compartir, vender y comprar películas digitales que no hayan pagado la licencia respectiva al propietario del copyright. En otras palabras subrayan el carácter de la apropiación ilícita de los derechos de propiedad intelectual por el fabricante, el vendedor y el consumidor de películas piratas. Esta campaña ha puesto en circulación una serie de spots publicitarios en diversos medios masivos del país donde se afirma que tanto el vendedor como el comprador de discos piratas

cometen delito de robo. Por lo tanto, podríamos inferir que lo que se está afirmando es que la inmensa mayoría de peruanos consumidores de películas en formato digital son ladrones. Sin embargo, en la medida que ante nuestros ojos el negocio informal sigue operando libremente, pareciera que a la mayor parte de consumidores de películas digitales no les llega el mensaje. O más bien, para ponerlo en lenguaje de la calle peruana, pareciera que este mensaje "les llega", es decir que no les importa. Y no les importa porque parecieran actuar a partir de la premisa que tienen derecho al uso de las herramientas que ofrece la tecnología para acceder a la información y el conocimiento<sup>50</sup>.

Hace dos siglos la gente no tenía las posibilidades económicas para acceder a las herramientas para producir libros (imprentas), ni música (disqueras) y menos películas (cámaras y laboratorios). Por ello, en aras de la creatividad y la cultura, la sociedad fue cediendo territorio en beneficio de casas editoras de libros, productoras fonográfica y de películas que fueron a su vez ganando más y más del poder económico y político. La aparición de Internet y las tecnologías digitales, al poner al alcance de todos (democratizar) las herramientas para crear, copiar, compartir, modificar y difundir una creación artística, han llegado para cambiar esta situación y devolverle a la sociedad y al individuo el derecho que habían ido perdiendo. ¿Quién se ha beneficiado con esta posibilidad generada por la gran revolución tecnológica de la era informacional? Pues

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<sup>50</sup> He realizado una encuesta inicial, informal y exploratoria entre un grupo de jóvenes de último año de la escuela secundaria de mi hijo de 16 años. Todos responden en la misma dirección.

todos. ¿Y quién se perjudica? Pues nadie como hemos visto por las cifras de utilidades de las corporaciones que hemos revisado.

Hay que preguntarse si se puede seguir penalizando el libre uso de las tecnologías digitales con el argumento que facilitan el robo a la propiedad intelectual. La historia del pensamiento y producción cultural, que son el fundamento sobre el que se construye el desarrollo de la sociedad<sup>51</sup>, se ha nutrido a lo largo de los siglos de las creaciones de quienes los antecedieron para beneficio de los sucesores. En la medida que la creación trabaja como las ideas con materia intangible, el uso libre de las herramientas digitales, al facilitar y alimentar la creatividad, no puede constituir un aliciente al robo. Creo por lo tanto que es legítimo, bajo ciertas condiciones que dejo para un estudio en mayor profundidad, dejar de penalizar el uso de las tecnologías digitales, así como desregular y promover el flujo de información de la Web salvaguardando el espíritu abierto que impulsa la sociedad global.

Los usos y costumbres desarrollados por la población en torno al comercio informal de películas han terminado alimentando una confrontación de la sociedad con la legalidad. Si entendemos el aparato legal de un país como el marco que todos aceptamos para convivir en respeto de unos y otros, al margen de los abusos y privilegios, entonces: ¿cómo aceptar normas que están al servicio de unos pocos en detrimento de muchos?

Uno de los aspectos que definen a la sociedad posmoderna es el cuestionamiento a las grandes corporaciones. Muchos

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<sup>51</sup> GARCIA CANCLINI. Op. cit.

jóvenes están convencidos que gran parte de los grandes males que ha sufrido y sufre la humanidad son causados por ellas: guerras, polución, enriquecimiento exagerado a costa de los más pobres, etc. Podría haber por lo tanto un placer oculto en comprar una película pirata porque al hacerlo se sabe que se le está sacando la vuelta a un sistema que, terminados los tiempos de la revolución social, los jóvenes no tienen muchas maneras de combatir.

Nuestros jóvenes crecen viendo cómo, siendo ilegal, todos descargamos material de Internet; cómo, siendo ilegal, todos compramos películas piratas en los mercados; cómo todos usamos y recreamos con material artístico de otros; cómo todos copiamos, compartimos y difundimos libremente textos, libros y músicas. Por lo tanto no es extraño que un joven piense hoy que no es muy distinto violar la ley sobre propiedad intelectual a cruzarse la luz roja, o a no pagar impuestos, o a robar en una tienda, o a dar una coima, o a mentir en una declaración jurada, o a aceptar violaciones de los derechos humanos.

Después de estas conjeturas puedo afirmar que no es sostenible una legislación como la de propiedad intelectual que atenta contra los intereses culturales de la sociedad en su conjunto y en particular contra los de la población de menores ingresos.



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### ANEXOS

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## ANEXO 1

### Listín Cinematográfico del diario El Comercio

(años 1981, 1985, 1991, 1995)



# LISTIN CINEMATOGRAFICO

10 Julio, 1981

**SALAS DE ESTRENO**

**A D A N**  
Unión 805 - Telf. 288460

8.30 - 9.30 - 10.30 p.m. - EL OJO OCULTO DE LAS BERMUDAS (May. de 14 años) 470.00

**A L C A Z A R**  
Santa Cruz 814 T. 228907

8.45 - 9.45 p.m. - EL CANTOR DE JAZZ (May. de 14 años) 500.00 - 500.00

**ALHAMBRA**  
Los Jirafales 282 T. 401828

4.15 - 7.15 - 10.15 p.m. - COMO ELIMINAR A SU JEFE (May. de 14 años) 470.00; 410.00

**AMBAADOR**  
Pumahuasi 2550 T. 719193

6.30 - 7.30 - 10.30 p.m. - EMANUELLE 1 (May. de 18 años) 470.00 - 410.00

**ARREGUIPA**  
Av. Arcequia 838, Telf. 236623

8.00 Augusto Polo Campos Presenta LA GRAN TAPA de Jueves a Domingo.

**A Z U L**  
T. Cárdenas 450 T. 716643

4.30 - 7.30 - 10.30 p.m. - LA CARRERA FINAL (May. de 14 años) - 410.00. Playas del Sur.

**B I J O U**  
Unión 446 Telf. 288163

8.15 4.30 7.30 10.30 p.m. - En helicóptero EL ESCUADRON ZERBA (May. de 18 años) - 550.00.

**C A N O U T**  
Av. P. Thouars 4550 T. 461328

8.45 - 9.45 - 10.45 p.m. - EMANUELLE 1 (May. de 18 años) 410.00.

**C A P I T O L**  
África 248 Telf. 245187

4.30 - 7.30 - 10.30 p.m. - MUERTE AL AMANECER (May. de 18 años) 410.00.

**C I T Y H A L L**  
Venezuela 681 T. 233191

8.45 - 9.45 - 10.45 p.m. - Estreno en colores ABRAZAME MAMA (Apta. para todos). - 410.00 - 310.00.

**C O L I N A**  
Barón - Telf. 438337

8.45 - 9.45 - 10.45 p.m. - COCKY EL BIEN DOTADO (May. de 18 años) 470.00 - 410.00.

**C O L M E N A**  
N. de Piérola 819, T. 284828

8.45 6.45 9.45 Malcolm Mc Do. señal CALIGULA (May. 18) - 500.00 500.00.

**C O L O N**  
Unión 1804 T. 247786

PRÓXIMA GRAN REAPERTURA DE ESTA SALA.

**C O N C O R D O**  
Av. P. Thouars 1387 T. 718231

4.15 - 7.15 - 10.15 p.m. - EL CANTOR DE JAZZ (May. de 14 años). 560.00 - 500.00.

**CONQUISTADOR**  
Av. España 241 T. 246160

1.15 - 4.15 - 7.15 p.m. - KAGOMUBHA LA SOMBRERA DEL GUERRERO (Apta. para todos). 500.00 - 310.00.

11.00 p.m. - TRIANGULO SEXUAL (May. de 18 con Advertencia).

**C O U N T R Y**  
S. Unzué 442, T. 724967

6 7 10 Burl Ives EL OJO OCULTO DE LAS BERMUDAS (May. 14) 470.00 410.00

**CONDE DE LEMOS**  
Suñáez 899, T. 225994

6 7 10 CAMPAMENTO DE GUERRILLERAS CHINAS (18) 900.00 250.00.

**DIAMANTE**  
Av. Brasil 891, Tlf. 214513

4.15 7.15 10.15 Jane Fonda CO MO ELIMINAR A SU JEFE (14) 470.00 410.00.

**EL PACIFICO**  
Pardo y Diagonal T. 436990

8.45 - 9.45 - 10.45 p.m. - COMO ELIMINAR A SU JEFE (May. 14 años). 560.00; 500.00

**EL FORVENI**  
Lucanas 531 Telf. 245459

4.15 - 7.15 - 10.15 p.m. - EL SABLE QUE ESTAS SOLA (Mayores de 18 años) 500.00 - 250.00.

**EVA**  
Unión 805 Telf. 288590

8.30 - 9.30 - 10.30 p.m. - PLACERES DE UNA DISCOTECA PRIVADA (Mayores de 18 años) - 470.00.

Trasnochó 11.45 p.m. - SADMISMO (May. 18 con Advertencia).

**EXCELSIOR**  
Unión 780 Telf. 279947

8.30 - 9.30 - 10.30 p.m. - MUERTE AL AMANECER (May. de 18 años) 410.00 - 310.00 - 250.00.

**G R A U**  
Av. Grau 270 Telf. 329178

4.15 - 7.15 - 10.15 p.m. - LA CARRERA FINAL (May. de 14 años) 410.00 - 310.00.

**IDOLO**  
L. Gamarrá 424 T. 623536

4.15 7.15 10.15 Jane Fonda CO MO ELIMINAR A SU JEFE (14) 470.00 410.00.

**IMPÉRIO**  
Tacna 225 Telf. 271385

8.30 - 9.30 - 10.30 p.m. - UNA ESCRITURA DENUNDA (May. de 18 años) 470.00 - 310.00.

**INDEPENDENCIA**  
Av. Militar 1923 T. 710823

4.30 - 7.30 - 10.30 p.m. - VERA MI CAMA (May. de 18 años) 410.00 - 310.00.

**JULIETA**  
Porta 115

8.30 - 9.30 - 10.30 p.m. - EL OJO OCULTO DE LAS BERMUDAS (May. de 18 años) 560.00.

La Polvora.

**LATINO**  
Tarapacá 455 Telf. 212748

8.20 - 9.20 - 10.20 p.m. - LA CARRERA FINAL (May. de 14 años). 410.00 - 310.00.

**LE P A R I S**  
N. de Piérola 757 T. 278659

4.00 - 7.00 - 10.00 p.m. - PENSION DEL LIBRE AMOR (May. de 18 años) 470.00 - 410.00.

Carnaval Limeño.

**LIDO**  
Moquegua 563 T. 233941

8.45 6.45 9.45 Jane Fonda CO MO ELIMINAR A SU JEFE (14) 470.00 410.00 310.00.

**M A R I A T E G U I**  
Muscar 1634 T. 319307

8.00 p.m. - La deliciosa comedia musical con Regina Alcove LA LIBELULA.

**MARSAÑO**  
S. Suñáez 469, T. 457387

8.00 Ovidio Costone HIJOS DE UN DIOS MENOR (de Mark Medoff) Loc. en venta 3.00 pm.

**M E T R O**  
Carabaya 917 Telf. 284954

8.45 - 9.45 - 10.45 p.m. - EL SABLE QUE ESTAS SOLA (Mayores de 18 años) 500.00 - 250.00.

**M T R O P O L I T A**  
Iquitos 715 T. 216123

4.15 - 7.15 - 10.15 p.m. - En colores ABRAZAME MAMA (Apta. p. todos) 410.00; 310.00.

**M E X I C O**  
Huancavelica 710 T. 245442

8.30 a 11.45 p.m. - Programa doble PROFESORA ENSEÑA DE T O O Además EL DIARIO EROTICO DE UNA HOSTESS (May. de 18 años) 330.00 - 270.00 - 200.00.

**MIRONES**  
P. García y G. 181, T. 314838

4.15 7.15 10.15 EL DESMO Y LA VOLUPTUOSIDAD (May. 18) 350.00.

**MONTECARLO**  
F. Azules 419, T. 455027

8.45 6.45 9.45 Juan Collins en PLACERES DE UNA DISCOTECA PRIVADA (May. 18) - 410.00

**MONUMENTAL**  
Venezuela 948 T. 246767

4.30 - 7.30 - 10.30 p.m. - LA PENSION DEL LIBRE AMOR (May. de 18 años) - 410.00 - 250.00.

**O D E O N**  
Manco Cápac 699 xlf. 324609

4.15 - 7.15 - 10.15 p.m. - MUERTE AL AMANECER (May. de 18 años) 410.00 - 310.00.

**O L L A N T A**  
Cancervo 242 Telf. 710466

4.30 - 7.30 p.m. En colores CAMPAMENTO DE GUERRILLERAS CHINAS (May. de 18 años) 470.00.

Trasnochó 11.00 p.m. PROSTITUCION CLANDESTINA (May. de 18 años con Advertencia).

**OPERA**  
Garcón 1160 Telf. 315328

4.15 - 7.15 - 10.15 p.m. - LA PENSION DEL LIBRE AMOR (May. de 18 con advertencia) 410.00 - 310.00.

**O R A N T I A**  
Av. Arequipa 2761 T. 224407

4.00 - 7.00 - 10.00 p.m. - BROOKE SHIELDS Y MIRA BONITA (May. de 18 años) - 560.00 - 500.00.

Fiora de Machu Picchu.

**P R E M I E R**  
Gran 1006 Telf. 610327

4.15 - 7.15 - 10.15 p.m. - EMANUELLE 1 (May. de 18 años) 470.00 - 410.00.

**R E A L 1**  
Centro Camino Real

8.30 - 9.30 - 10.30 p.m. - LA CARRERA FINAL (May. de 14 años) - 500.00.

**R E A L 2**  
Centro Camino Real

8.45 - 9.45 - 10.45 p.m. - MUERTE AL AMANECER (May. de 18 años) - 500.00.

**R E P U B L I C A**  
Carabaya 1180 Telf. 284943

8.45 - 9.45 - 10.45 p.m. - EMANUELLE 1 (May. de 18 años) - 500.00 - 380.00.

**R I T Z**  
A. Ugarte 1431 T. 237580

4.15 - 7.15 - 10.15 p.m. - MUCHACHAS EN BUCCA DE PLACER (May. de 18 años) 410.00 - 310.00.

La fe de un pueblo.

**ROMA**  
E. Fernández 842, T. 231544

8.40 6.40 10 TRES MUJERES INMORALES (18) 560.00 500.00 Medicina Tradicional.

**ROMEO**  
Porta 115

4.15 - 7.15 - 10.15 p.m. - LA CARRERA FINAL (May. de 14 años). 560.00; 500.00.

**S A L A M A N C A**  
A. Circunvalación

4.30 - 7.30 - 10.30 p.m. - COCKY EL BIEN DOTADO (May. de 18 años) - 410.00.

**S A N A N T O N I O**  
Sanavides 1045 T. 450148

8.45 - 9.45 - 10.45 p.m. En CAMPAMENTO DE GUERRILLERAS CHINAS (May. de 14 años) 470.00 - 410.00.

**S A N F E L I P E**  
Validizan 666 Telf. 240462

4.15 - 7.15 - 10.15 p.m. - EL CANTOR DE JAZZ (May. de 14 años). 470.00; 410.00.

**SAN ISIDRO**  
P. Thouars 2294, T. 407331

8.30 6.30 9.30 KAGOMUBHA LA SOMBRERA DEL GUERRERO (A. P.T.) 410.00.

**SAN MARTIN**  
Ocoña 111 - Telf.: 218723

8.30 - 9.30 - 10.30 p.m. - CAMPAMENTO DE GUERRILLERAS CHINAS (May. de 18 años) 410.00 - 310.00; 250.00.

Trasnochó 11.45 p.m. - En tecnología PROSTITUCION CLANDESTINA (May. 18 años) Con Advertencia).

**SUPER BALL**  
Av. México 866, T. 721898

4.15 7.15 10.15 Juan Collins en PLACERES DE UNA DISCOTECA PRIVADA (18) 410.00.

**T A C N A**  
Av. Tacna 552 Telf. 223646

8.45 - 9.45 - 10.45 p.m. - EL CANTOR DE JAZZ (May. de 14 años) 290.00 - 160.00.

**U N I O N**  
Huanta 761 Telf. 265950

4.30 - 7.30 - 10.30 p.m. - MUERTE AL AMANECER (May. de 18 años) 290.00 - 250.00.

**SAN MARTIN DE PORRES**

**C A S T I L L A**  
Pocitos 285 Telf. 815240

4.00 - 7.00 - 10.00 p.m. - CUANDO LAS COLIBRILLAS PROAN (May. de 18 años) - 290.00 - 160.00.

**J U N I N**  
V. Perú 2250, T. 323419

7.15 10.15 GRAN FESTIVAL DE ESTRELLAS con Néstor Quintanero, Abanto Morales, Ana. María Indio, Aguirre y Otros (A.P.T.) 500.00 250.00.

**L A S P A L M E R A S**  
Urb. Las Palmeras

4.00 - 7.00 - 10.00 p.m. - VICIOS ARDIENTES (May. de 18 años) - 290.00.

**P E R U**  
Av. Perú 2098

HOY NO HAY FUNCION POR DESCANSO DE LA COMPANIA

**R I M A C**

**C R I S T A L**  
Ayabaca 369 Telf. 812599

8.30 a 11.00 p.m. - Programa doble CONFESIONES INTIMAS Además MUJERES DE CALA (May. de 18 años) 220.00 - 190.00.

**A D R I A D**  
Av. Alzúzar 4ta. Cdra. s/n.

4.00 - 7.00 - 10.00 p.m. - LOS HERMANOS CARADUNA (May. de 14 años) - 240.00.

**S T H E L L A**  
Tomás Moya 889 Telf.: 814032

4.00 - 7.00 - 10.00 p.m. - TRINTY VA A LA GUERRA (Astorrea) 240.00 - 150.00.

**P E R I C H O L**  
Jr. Trujillo 814 Telf.: 275337

8.30 - 9.30 - 10.30 p.m. - LA PENSION DEL LIBRE AMOR (May. de 18 años con advertencia) 290.00 - 160.00.

**BARRIOS ALTOS**

**A L A N E D A**  
Grau 1708

4.00 - 7.00 - 10.00 p.m. - TRAVESURAS EN LA CAMA (May. de 18 años) 190.00 - 130.00.

**BOLIVAR**  
Adehuarías 1132, T. 2/418

8.30 a 11.30 p.m. - Programa doble FLOR DENUNDA Además LAS ONCE MIL VIRGENES (May. de 18 años) 240.00 - 150.00.

**D E L I C I A S**  
Cangallo 441 T. 286725

8.30 - 9.45 - 10.00 p.m. - LA LOCURA AMERICANA (May. de 18 años) 200.00.

**P I Z A R R O**  
Huanta 760 Telf. 276576

8.45 - 9.45 - 10.45 p.m. - EL CANTOR DE JAZZ (May. de 14 años) 290.00 - 160.00.

**U N I O N**  
Huanta 761 Telf. 265950

4.30 - 7.30 - 10.30 p.m. - MUERTE AL AMANECER (May. de 18 años) 290.00 - 250.00.

**SAN MARTIN DE PORRES**

**C A S T I L L A**  
Pocitos 285 Telf. 815240

4.00 - 7.00 - 10.00 p.m. - CUANDO LAS COLIBRILLAS PROAN (May. de 18 años) - 290.00 - 160.00.

**J U N I N**  
V. Perú 2250, T. 323419

7.15 10.15 GRAN FESTIVAL DE ESTRELLAS con Néstor Quintanero, Abanto Morales, Ana. María Indio, Aguirre y Otros (A.P.T.) 500.00 250.00.

**L A S P A L M E R A S**  
Urb. Las Palmeras

4.00 - 7.00 - 10.00 p.m. - VICIOS ARDIENTES (May. de 18 años) - 290.00.

**P E R U**  
Av. Perú 2098

HOY NO HAY FUNCION POR DESCANSO DE LA COMPANIA

**R I M A C**

**C R I S T A L**  
Ayabaca 369 Telf. 812599

8.30 a 11.00 p.m. - Programa doble CONFESIONES INTIMAS Además MUJERES DE CALA (May. de 18 años) 220.00 - 190.00.

**A D R I A D**  
Av. Alzúzar 4ta. Cdra. s/n.

4.00 - 7.00 - 10.00 p.m. - LOS HERMANOS CARADUNA (May. de 14 años) - 240.00.

**S T H E L L A**  
Tomás Moya 889 Telf.: 814032

4.00 - 7.00 - 10.00 p.m. - TRINTY VA A LA GUERRA (Astorrea) 240.00 - 150.00.

**P E R I C H O L**  
Jr. Trujillo 814 Telf.: 275337

8.30 - 9.30 - 10.30 p.m. - LA PENSION DEL LIBRE AMOR (May. de 18 años con advertencia) 290.00 - 160.00.

**COMAS**

**A L A N D I N O**  
Av. Túpac Amaru 1902

4.00 - 7.00 - 10.00 p.m. - EXPERIMENTOS MUY GRANOS (May. de 18 años) 200.00.

**TUPAC AMARU**

Sala Sur 4 - 7 - 10 p.m. - LADY KARATE (May. de 14 años) 220.00 - 190.00 - 150.00.

Sala Norte 4 - 7 - 10 p.m. - SERVICIO DE UN MAYOR COMO A SU PATRONA (May. de 18 años) 220.00.

**TAHUANTINSUYO**

**LIBERTAD**  
Av. Chinchipe

4 7 10 Magda Tiler PRECOZ ADOLESCENCIA (May. 18) - 160.00

**B R E R A**

**D A N U B I O**  
J. Chávez 1128 T. 230916

4.00 - 7.00 - 10.00 p.m. - NOCHE PERNO DE EMANUELLE (May. de 18 años) 290.00 - 160.00.

**F A N T A S I A**  
Venezuela 1132 T. 244444

4.30 - 7.30 - 10.30 p.m. - EL CANTOR DE JAZZ (May. de 14 años) 290.00.

**V A R E L A**  
Calle Varella 1688

4 7 10 INFERNO DE MUJERES (May. 18) 290.00 240.00

**LA VICTORIA**

**ANDALUCIA**  
Parq. 12 de Octubre 2189

4 7 10 Asaf Bayat EL NIÑO BIONDO (Apta para todos) - 170.00 120.00

**B E V E R L Y**  
Manco Cápac 135 - Telf. 317254

4.00 - 7.00 - 10.00 p.m. - POPEA Y SUS AMORES (May. de 18 años) 250.00 - 160.00.

**L U X**  
Manco Cápac 850 - Tel. 324605

4.15 - 7.15 - 10.15 p.m. - LOCURA AMERICANA (May. de 18 años) 200.00 - 150.00.

**N U N D O**  
Huancayo 2297, T. 726973

4 7 10 LOS AMORES DE UN ARISTOGATO (May. 18) 290.00 160.00

**O L I M P O**  
B. y Meca 336 T. 226738

4.15 - 7.15 - 10.15 p.m. - PLACERES SECRETOS (May. de 18 años) 220.00.

**S U C R E**  
28 de Julio 2850

4.15 7.15 10.15 BRUCE LEE ES

**Z A R A T E**

**G L O R I A**  
Av. Gran Chimú Telf. 618287

HOY NO HAY FUNCION POR DESCANSO DEL PERSONAL

**M A G D A L E N A**

**A C U A R I O**  
Vitrancos 66b

Próxima Gran Inauguración DINAMO (May. 14)

**BRASIL**  
Av. Brasil 3222

4.30 7.30 10.30 AMORES Y DE LINGUICIA EN UNA CARCEL DE MUJERES (May. 18) 270.00 160.00

**B R O A D W A Y**  
Brasil 3542 T. 813387

4.30 - 7.30 - 10.30 p.m. - EL OJO OCULTO DE LAS BERMUDAS (May. de 14 años) - 290.00.

**C A R D E L**  
Solomendi 284

4 7 10 Fred Williamson EL PADRINO DE HARLEM (May. 18) 180.00 150.00 120.00

**M I R A F L O R E S**

**LEONCIO PRADO**  
Dante 417 T. 450537

4.80 - 7.00 - 10.00 p.m. - UNA MUJER DE NOCHE (May. de 18 años) 290.00 - 160.00.

**M A X I M I L**  
Telf. 859 Telf. 450463

8.45 - 9.45 - 10.45 p.m. - LA CARRERA FINAL (May. de 14 años) 290.00 - 160.00.

**P R I M A V E R A**  
Primavera 750 Telf. 464187

4.00 - 7.00 - 10.00 p.m. - EL SABLE QUE ESTAS SOLA (May. 18 años). 290.00; 160.00.

**S U S Y**  
Pachacutec. Telf.: 670648.

4.00 - 7.00 - 10.00 p.m. - GENERACION EN LA BASURA (May. de 18 años) 290.00 - 160.00.

**V I C T O R I A**  
Pachacutec Telf. 633242

4.00 - 7.00 - 10.00 p.m. - NO SOY VIRGEN (May. de 18 años) 190.00 - 130.00.

**D E L I A**  
Pachacutec 781

4.00 - 7.00 - 10.00 p.m. - SHAOLIN CONTRA KATEKA (Mayores de 14 años) 190.00 - 130.00.

**V I L L A M A R I A**  
Av. El Triunfo 621

4.00 - 7.00 - 10.00 p.m. - INFIDELIDAD CONYUGAL (May. de 18 años) 190.00 - 130.00.

**BARRANCO**

**B A L T A**  
O. Balta 1123 T. 672389

4 7 10 Edwige Fenech SOY FO. TOYONCO (18) 290.00 160.00.

**R A Y M O N D I**  
Salaverry 143, T. 676289

4 7 10 DRACULA (May. 14) - 160.00

**C H O R R I L L O S**

**O L A Y A**  
José Olaya 645 T. 410788

4.00 - 7.00 - 10.00 p.m. - CAMAS SALVAJES (May. de 18 años) 290.00.

**V I C T O R I A**  
A. Ugarte 190 Telf. 671853

4.00 - 7.00 - 10.00 p.m. - EL RESCATE DEL TITANIC (Apta. p. todos). 290.00; 160.00.

**CALLO**

**B E L L A V I S T A**  
Grau 1708 Telf. 290788

8.30 - 9.30 - 10.30 p.m. - LA PENSION DEL LIBRE AMOR (May. de 18 con advertencia) 330.00 - 200.00.

**C A L L A O**  
Suñáez Peña 316 - Telf. 678997

8.30 - 9.45 - 10.45 p.m. - MUERTE AL AMANECER (May. de 18 años) 330.00 - 170.00.

**P E R L A**  
Calle Brasil 818 (Callao).

3.45 7.10 Monika Siwin TRÉS BAJO LA BANCA (18) 200.00 120.00 160.00

**M O N A R C A**  
Los Cóndores 170 T. 516396

8.45 - 9.45 - 10.45 p.m. - COMO ELIMINAR A SU JEFE (May. 14 años) 470.00; 410.00

**P A C I F I C O**  
Ayacucho 181 T. 299758

8.30 a 11.30 p.m. Programa doble PLACERES SECRETOS Además PROSTITUCION (May. de 18 años) 270.00 - 170.00.

**P O R T E R O**  
Suñáez Peña 342 T. 658674

8.30 - 7.00 - 10.00 p.m. - EMANUELLE 1 (May. de 18 años) 560.00 - 500.00.

**S A N Z P E R A**  
Suñáez Peña 137 T. 658399

8.30 - 9.45 - 10.45 p.m. - LA CARRERA FINAL (May. de 14 años). 330.00 - 200.00.

**S A N T A M A R I N A**

**P R O X I M A G R A N R E A P E R T U R A D E E S T A S A L A .**

**V E N T A N I L L A**

**M A R B E L L A**  
Calle 22 Ventanilla

4.00 - 7.00 - 10.00 p.m. - SPALOPRO (May. de 14 años) 290.00.

**P E R I M O R**  
Pedro Ruiz Calle No. 229

HOY NO HAY FUNCION POR DESCANSO DEL PERSONAL

**CHACALAYO**

**CHACALAYO**  
Los Cedros 1485

Próxima Gran Reapertura Totalmente Refaccionado

**VITARTE**  
Jr. Central

4 7 10 Linda Blair EL EXORCISTA (May. 18) 220.00

**CHOSICA**

**J. CHOSICA**  
Libertad 181

4 7 10 Robert Mitchum AGENT CIA 123 MUERTE (May. 14) 290.00 240.00

**F E R U C H**  
28 de Julio 376 T. 816553

4 7 10 Robert De Niro EL TORO SALVAJE (May. 18) 290.00 - 160.00

**OMNIA CH.**  
Jr. Chiclayo 137

Próxima Gran Reapertura



domingo, a partir de las 10.00 horas, en los salones de los Country Club El Bosque. Será un homenaje a Gardel, de quien, como se sabe, acaba de cumplirse el cincuentenario de su trágica desaparición. Torres será secundado por un conjunto típico.



Emily Kreimer y Federico Luppi en la telenovela 'Lucia Bonelli'.

agrega con su próximo trabajo de televisión debe ser para la productora Crustel, de Buenos Aires, o para Venevisión, de Caracas, y que terminadas estas vacaciones en Lima deben concretarse.

hablar sobre la telenovela 'Lucia Bonelli', que se difunde por Panamericana Televisión. La difusión de sus 145 capítulos duró ocho meses en la TV argentina. "Otra de las labores que cumpli

revisión, como el productor por el Canal 11 y que llevó por título 'Año Nuevo', y el que realizó el Canal 9 con el título de 'Grandes Valores', con los que su rostro se hizo más conocido en Argentina.

**EVA**  
Martes  
**HOY POPUL**

000000  
**LEO MAYA**  
Artista invitado  
**JULIO CUPRE**

# Listín cinematográfico

20/07/1985

**ADAN**  
Unión 905 Telf. 288480  
3.45 6.45 9.45 TESTIGO EN PELIGRO (May. de 18 años) 9,000.00

**ALCAZAR**  
Santa Cruz 814 Telf. 229807  
3.45 6.45 9.45 EL ULTIMO DRAGON (APT) 10,000.00 9,500.00

**ALHAMBRA**  
Los Zanjines 299 Tlf. 401695  
3.45 6.45 9.45 ESCUELA DEL DESORDEN (May. de 14 años) 10,000.00 10,000.00

**AMBASADOR**  
Pumacahu 2550 Telf. 701360  
4.30 7.30 10.30 EL PELOTON CHIFLADO (May. de 14 años) 10,000.00 9,000.00

**ARENALES AMBAR**  
Centro Comercial Arenales  
3.00 6.30 10.00 AMADEUS (May. de 14 años) 14,000.00

**ARENALES JADE**  
Centro Comercial Arenales  
3.30 7.00 10.30 AMADEUS (May. de 14 años) 14,000.00

**ARLEQUIN**  
Cuba 1130 Telf. 233781  
8.00 pm. ALFREDO BOURNOCLE  
Linda Isabel Chir "C E L O S"

**AUDITORIO MIRAFLORES**  
Larco 1150 (estano) T. 478378  
8.00 pm. Tito Salas. — Pilar Brescia "LA PEQUEÑA CHOZA"  
Bol. 6.00 pm.

**AUDITORIO SAN VICENTE**  
Av. Del Ejército 2402 (Cra. 111)  
8.00 pm. T. 489004

**3.00 6.00 8.00 LOS AMORES DE STRAUSS (APT) 9,000.00 - Niños 4,000.00**

**BRITANICA**  
Belavista 527 T. 479780 Miraf  
8.00 pm. VIAJE A LA TIERRA DE JALYA Y OTRAS PEREGRINACIONES DEL HAMBRE

**LEGUJA**  
Av. Arequipa 838 Telf. 236423  
8.30 10.30 pm. Exito APRENDIA A SER INFIEL con Betina Onetto y Etrán Aguilar

**AZUL**  
T. Cárdenas 450 Telf. 714443  
4.30 7.30 10.30 TESTIGO EN PELIGRO (May. de 18 años) 6,000.00 El pueblo lo hizo

**BIJOU**  
Unión 446 Telf. 282163  
11.00 1.45 3.45 6.45 9.45 TRAMPA PASIONAL (May. de 18 años) 9,000.00

**CANOTI**  
Petit Thouars 4550 Telf. 461328  
1.00 8.00 Piero Solari presenta el Gran Evento Cien Años DE ANCIANES ITALIANAS  
Solerita 10 a l y de 4 a 7 pm.

**CAPITOL**  
Árica 248 Telf. 245187  
1.30 7.30 10.30 EL ULTIMO DRAGON (APT) 8,000.00

**CENTRAL**  
Tacna 311 Telf. 237178  
1.30 6.30 9.30 TESTIGO EN PELIGRO (May. de 18 años) 9,000.00 10,000.00 Aguarunas

**CITY HALL**  
Venecia 1281 T. 233181  
1.30 6.30 9.30 ATADOS POR EL DESTINO (APT) 5,500.00 5,000.00

**COLINA**  
Bélico Telf. 459537  
3.45 6.45 9.45 AMADEUS (May. de 14 años) 13,000.00 12,000.00 7,000.00

**COLON**  
Unión 1004 Telf. 247794  
3.45 6.45 9.45 SEXY DE DIA EROTICA DE NOCHE (May. de 18 años) 10,000.00 9,500.00 7,000.00

**CONCORDE**  
Av. P. Thouars 1583 T. 718235  
4.15 7.15 10.15 EL NIÑO Y EL TORO (APT) 10,000.00 9,500.00

**CONQUISTADOR**  
Av. España 241 Telf. 246180  
2.15 4.15 7.15 10.15 TRAMPA PASIONAL (May. de 18 años) 9,000.00 8,500.00

**COLMENA**  
N. de Piérola 519 Telf. 284525  
4.00 7.00 10.00 LA CIUDAD Y LOS PERROS (May. de 18 años) 11,000.00 10,000.00

**COUNTRY**  
H. Unanue 442 Telf. 702380  
4.15 7.15 10.15 TRAMPA PASIONAL (May. de 18 años) 8,500.00 8,000.00

**CONDE DE LEMOS**  
Huancayo 889 Telf. 285801  
4.00 7.00 10.00 PERFECCION DEL SEXO además PODRIAS CON 5 CHICAS A LA VEZ (May. de 18 años) 3,500.00

**DIAMANTE**  
Av. Brasil 851 Telf. 314312  
4.00 7.00 10.00 LA CIUDAD Y LOS PERROS (May. de 18 años) 9,500.00 9,000.00

**EL PACIFICO**  
Pardo y Diagonal Telf. 456990  
3.30 6.30 9.30 LA CIUDAD Y LOS PERROS (May. de 18 años) 10,000.00 10,000.00

**EVA**  
Unión 805 Telf. 288460  
3.30 6.30 9.30 EL ULTIMO DRAGON (APT) 9,000.00

**EXCELSIOR**  
Unión 780 Telf. 279947  
3.30 6.30 9.30 ESCAPE A SIBERIA (May. de 14 años) 8,000.00 7,000.00

**FELIPE PARDO Y ALIAGA**  
Jr. Apurimac Telf. 275880-A.107  
2.30 6.30 10.30 DOCE DEL PATIBULO (May. de 14 años) 4,000.00

**GRAU**  
Av. Grau 270 Telf. 329178  
4.15 7.15 10.15 TESTIGO EN PELIGRO (May. de 18 años) 6,000.00 4,000.00

**IDOLO**  
A. Gamarra 424 Telf. 635230  
4.30 7.30 10.30 NANA (May. de 18 años) 7,500.00 7,000.00

**IMPERIO**  
Tacna 225 Telf. 271385  
3.30 6.30 9.30 PERFUME CALIENTE DE VIRGEN (May. de 18 años) 8,000.00 7,500.00

**FLORI**  
Centro Comercial Flori  
4.00 7.00 10.00 STARMAN EL HOMBRE DE LAS ESTRELLAS (APT) 4,000.00

**Trasnoche: 12.15 am. MUJERES INSATISFECHAS (May. de 18 años c. advert.)**

**INDEPENDENCIA**  
Av. Millar 1833 Telf. 710825  
4.30 7.30 10.30 CAPITAN APACHE (May. de 14 años) 8,000.00 7,000.00

**Trasnoche: 1.15 am. ORGASMO EROTICO (May. de 18 años c. advert.)**

**JULIETA**  
Puerta 115  
3.30 6.30 9.30 EL FILO DE LA NAVAJA (May. de 18 años) 10,000.00

**LATINO**  
Tarsapaca 455 Telf. 812748  
3.45 6.45 9.15 LA CIUDAD Y LOS PERROS (May. de 18 años) 7,000.00 6,500.00

**LE PARIS**  
N. de Piérola 787 T. 278659  
1.45 3.45 6.45 9.45 LAS SEDUCTIONS DEL PLACER (May. de 18 años) 9,000.00 8,500.00

**Trasnoche: 1.00 am. LAS MAQUINACIONES SEXUALES DE UN PERVERTIDO además SUPER ORGASMO SUPER (May. de 18 años c. advert.)**

**LIDO**  
Moquegua 688 Telf. 233941  
3.45 7.00 10.00 LOCADEMIA DE TOLUCA (May. de 14 años) 8,000.00 6,000.00

**MARIATEGUI**  
Huancayo 1654 Telf. 318307  
4.00 7.00 10.00 TRAMPA PASIONAL (May. de 18 años) 9,500.00

**MARSANO**  
G. Suárez 409 Telf. 457347  
8.00 pm. Osvaldo Cattone presenta a Eva Franco LOS ARBOLES MUEREN DE PIE

**METRO**  
Carabaya 917 Telf. 284954  
3.30 6.30 9.30 LA CIUDAD Y LOS PERROS (May. de 18 años) 10,000.00 9,000.00

**METROPOLITAN**  
Iquitos 737 Telf. 311618  
4.00 7.00 10.00 ATADOS POR EL DESTINO (APT) 3,500.00 5,000.00

**MEXICO**  
Huanavelica 770 Telf. 245442  
3.15 7.15 UNA MUJER MUY PONDOROSA además SECRETOS INCONFESABLES DE UNA AZAFATA (May. de 18 años) 5,000.00 4,000.00

**MONUMENTAL**  
Venezuela 940 Telf. 246767  
4.30 7.30 10.30 LOS SUENOS HUMEDOS DE JUSTINE (May. de 18 años) 3,500.00 3,000.00

**Lenguaje misterioso**

**MONTECARLO**  
E. Aguirre 479 T. 455037  
Próximamente "Selva Mayor" en REVISTISMA

**ODEON**  
Av. Manco Cápac 699  
Domingo Matinal 11.00 PINOCHO (APT)  
3.45 6.45 9.45 LA CIUDAD Y LOS PERROS (May. de 18 años) 12.45 Media Noche DESEO Y PERVERSION - ORGIA SEXUAL (May. de 18 años) 8,000.00 7,000.00

**OLLANTA**  
Canevaro 242 Telf. 710466  
4.30 7.30 10.30 DOS CHIFLADOS EN APURUS (APT) 6,000.00

**Trasnoche: 1.00 am. BOCA GOLOSAS DE IRIS (May. de 18 años c. advert.)**

**OPERA**  
Gardín 1160 Telf. 315325  
4.15 7.15 10.15 EL NIÑO Y EL TORO (APT) 8,000.00 7,000.00 5,000.00

**ORRANTIA**  
Av. Arequipa 2701 T. 224407  
4.00 7.00 10.00 LA CIUDAD Y LOS PERROS (May. de 18 años) 10,000.00 9,000.00

**TACNA**  
Av. Tacna 552 - Telf. 233846  
3.45 6.45 9.45 EL NIÑO Y EL TORO (APT) 10,000.00 9,500.00 7,000.00

**TAURO**  
Washington 889 T. 329182  
3.45 6.45 9.45 EL PELOTON CHIFLADO (May. de 14 años) 10,000.00 9,000.00

**VENUS**  
Huancayo 368 T. 456887  
4.30 a 12.00 LAS SEDUCTIONS DEL PLACER además AMOR ARDIENTE SOBRE LA ARENA CALIENTE (May. de 18 años) 5,500.00

**VENECIA**  
N. de Piérola 207 Telf. 325594  
3.45 6.45 9.45 BRUCE LEE CONTRA EL PUÑO DE LA SERPIENTE (May. de 14 años) 7,500.00 6,500.00

**Trasnoche: 1.00 am. PORNO AMANTE además MANIAS SEXUALES (May. de 18 años c. advert.)**

**VISION**  
Parinacochas 850 Telf. 243717  
4.00 7.00 10.00 TESTIGO EN PELIGRO (May. de 18 años) 5,000.00 4,000.00

**WESTERN**  
Riazo 267 - Telf. 710529  
4.30 7.30 10.30 LAS SEDUCTIONS DEL PLACER (May. de 18 años) 6,300.00 5,700.00

**CERCADO**

**ALFA**  
R. Torrico 258 T. 282678  
4.00 7.00 10.00 LA DESNUDA CHICA DEL RELAX (May. de 18 años) 5,000.00

**OMNIA L**  
Av. Abancay 935 T. 284387  
11.30 2.15 4.30 7.00 10.00 LAS GARRAS DEL DRAGON (May. de 14 años)

**BARRIOS ALTOS**

**ALAMEDA**  
Grau 11708  
4.00 7.00 10.00 PERFUME CALIENTE DE VIRGEN (May. de 18 años) 2,500.00 2,400.00

**BOLIVAR**  
Andahuaylas 1136 T. 274159  
3.30 a 11.00 MANUELA LA MUJER DE MI PADRE además SECRETOS INCONFESABLES DE UNA AZAFATA (May. de 18 años) 4,000.00 3,500.00

**DELICIAS**  
Cangallo 441 T. 286225  
4.00 7.00 10.00 UN DETECTIVE SUELTO EN HOLLYWOOD (May. de 14 años) 4,000.00

**Trasnoche: 1.00 am. OBJETO DEL DESEO (May. de 18 años c. advert.)**

**FCO. PIZARRO**  
Huanta 760 T. 275576  
4.15 7.15 10.15 EL NIÑO Y EL TORO (APT) 5,000.00 4,000.00

**UNION**  
Huanta 741 T. 285950  
4.15 7.15 10.15 EL ULTIMO DRAGON (May. de 14 años) 5,000.00

**SUPER HALL**  
Av. México 686 T. 721589  
4.00 7.00 10.00 LA CIUDAD Y LOS PERROS (May. de 18 años) 5,000.00

**SAN MARTIN DE PORRES**

**CASTILLA**  
Pocitos 285 T. 815200  
4.30 7.30 MUJERES IMPUDICAS (May. de 18 años) 3,000.00 2,000.00

**Trasnoche: CUMBRES SEXUALES además FUEGO SENSUAL (May. de 18 años c. advert.)**

**LAS PALMERAS**  
Urb. Las Palmeras  
4.00 7.00 10.00 2010 EL AÑO QUE HACEMOS CONTACTO (APT) 3,000.00

**Trasnoche: 1.00 am. ESCLAVAS EROTICAS (May. de 18 años c. advert.)**

**JUNIN**  
Av. Perú 2250 T. 323413  
4.15 7.15 10.15 LA MEJOR DEFENSA EL ATAQUE (May. de 14 años) 3,500.00 2,000.00

**Trasnoche: 1.00 pm LOCADEMIA DEL SEXO (May. de 18 c. advert.)**

**PERU**  
Av. Perú 3093  
4.15 7.15 10.15 LOS DROGADICTOS ASESINOS (May. de 18 años) 4,000.00

**Trasnoche: PROSTITUCION EROTICA además otra obra (May. de 18 años c. advert.)**

**CRISTAL**  
Ayabaca 369 T. 812758  
3.45 7.30 RETORAJE SEXUAL además EL REY DEL SALON (May. de 18 años) 3,500.00 3,000.00

**ESTRELLA**  
Av. Tomás Moya 599 T. 814052

**PERRICHO**  
Jr. Trujillo 814 T. 279337  
3.30 6.30 9.30 LA CIUDAD Y LOS PERROS (May. de 18 años) 5,000.00

**MADRID**  
Av. Alcazar s/n Rimac  
4.00 7.00 10.00 FURYO (May. de 18 años) 3,500.00

**TUPAC AMARU**  
Av. Túpac Amaru 1002  
Sala Sur: 4.00 7.00 10.00 UN DOCTOR AGRIERADO (May. de 14 años) 3,000.00 2,000.00 1,000.00

**Sala Norte: 4.00 7.00 10.00 LUCRECIA BORGIA (May. de 18 años) 3,500.00**

**RELY**  
Jr. Los Pinos 247 Comas  
4.00 7.00 10.00 OPERATIVO TRUENO (may. de 14 años) 2,500.00 2,000.00

**TAHUANTINSUYO**

**LIBERTAD**  
Av. Chinchaysuyo  
4.00 7.00 10.00 JUSTICIA SALVAJE (May. de 14 años)

**BREÑA**

**FANTASIA**  
Venezuela 1132 Telf. 244384  
4.30 7.30 10.30 EL NIÑO Y EL TORO (APT) 5,000.00

**Trasnoche: 1.00 am. MAQUINACIONES SEXUALES DE UN PERVERTIDO además PECADOS EROTICOS DE EMANUELLE (May. de 18 años c. advert.)**

**PATY**  
Jorge Chávez 1168 T. 245853  
4.15 7.15 10.15 EL ASCENSOR (May. de 14 años) 4,000.00

**VARELA**  
Gral. Varela 1660  
4.00 7.00 10.00 PRISIONERO DE LA CASA MALDITA además LA MENOR (May. de 18 años) 3,000.00

**Trasnoche: 1.00 am. AMOR VIOLADO además SUPER ORGASMO SUPER (May. 18 años c. advert.)**

**LA VICTORIA**

**ANDALUCIA**  
Parq. 12 de Octubre 2127  
4.00 7.00 10.00 PURO TIGRE PURO KARATE (may. de 14 años) 2,500.00 2,300.00

**BEVERLY**  
Manco Cápac 135 Tlf. 317254  
4.15 7.15 10.15 PERFUME CALIENTE DE VIRGEN (May. de 18 años) 4,000.00

**La misma vaina**

**LUX**  
Manco Cápac 950 Tlf. 324605  
4.00 7.00 10.00 ESCUELA DEL DESORDEN (May. de 14 años) 4,000.00 3,500.00 2,500.00

**MUNDO**  
Huancayo 2297 T. 726973  
4.00 7.00 10.00 AVENTURAS AMOROSAS DE UN CHOFER (May. de 18 años)

**Trasnoche: 12.30 DESEOS Y PERVERSIONES (May. de 18 años c. advert.)**

**OLIMPO**  
Bausate y Mesa 336 T. 326735  
4.15 7.15 10.15 NANA (May. de 18 años) 3,500.00

**SUCRE**  
28 de Julio 2490  
4.15 7.15 PERFECCION DEL SEXO además DESEOS INSATISFECHOS (May. de 18 años)

**Trasnoche: 1.00 am. EROTISMO EN ROJO además MUJERES INSACIABLES (May. de 18 años c. advert.)**

**ZARATE**

**GLORIA**  
Av. Gran Chimú 1058  
4.00 7.00 LA SERPIENTE CONTRAATACA (APT)

**Trasnoche: MAQUINACIONES SEXUALES DE UN PERVERTIDO (May. de 18 años c. advert.)**

**MAGDALENA**

**ACUARIO**  
Av. Vivanco 605 Libre

**BRASIL**  
Av. Brasil 3222  
4.30 7.30 10.30 LA MEJOR DEFENSA EL ATAQUE (May. de 14 años)

**ESTRELLA SANTA CLARA**  
HOY NO HAY FUNCION

**CALLAO**

**BELLAVISTA**  
Grau 461 T. 290795  
4.00 7.00 10.00 2010 EL AÑO QUE HACEMOS CONTACTO (APT) 4,000.00 2,500.00

**BROADWAY**  
Brasil 3542 Tlf. 618387  
4.30 7.30 10.30 TESTIGO EN PELIGRO (May. de 18 años) 5,000.00

**GARDEL**  
Bolognesi 264

**MIRAFLORES**

**DELIA**  
Pachacútec 781  
4.15 7.15 10.15 EL REGRESO DEL DRAGON (May. de 14 años) 2,000.00 1,500.00

**MAXIMIL**  
Tacna 858 T. 450883  
4.30 7.30 10.15 SEXY DE DIA EROTICA DE NOCHE (May. de 18 años) 5,000.00 4,000.00

**Trasnoche: 12.30 OBJETOS DEL DESEO además FESTIVAL PORNO N° 2 (May. de 18 años c. advert.)**

**PRIMAVERA**  
Primavera 750 T. 454187  
3.45 6.45 9.45 DOS CHIFLADOS EN APURUS (APT) 5,000.00 4,000.00

**SUSY**  
Pachacútec T. 670545  
4.00 7.00 10.00 2010 EL AÑO QUE HACEMOS CONTACTO (May. de 14 años) 3,000.00 2,000.00

**VICTORY**  
Pachacútec T. 673742  
4.15 7.15 10.15 MADRE INDIA (May. de 14 años) 2,000.00 1,500.00

**VILLA MARIA**  
Av. El Triunfo 631  
4.00 7.00 9.30 "D'JANGO" (May. de 14 años) 2,500.00

**BARRANCO**

**BALTA**  
O. Balta 1193 Telf. 672389  
4.00 7.00 10.00 EL EJECUTOR (May. de 18 años) 4,000.00 3,000.00

**Trasnoche: 12.30 DESEOS PROHIBIDOS además AMANTES DEL PLACER (May. de 18 años c. advert.)**

**VITARTE**  
Jr. Central  
4.00 7.00 10.00 BREAKDANCE (APT) 2,500.00

**CHORRILLOS**

**VICTORIA**  
A. Ugarte 190 T. 617685  
4.00 7.00 10.00 FURYO (May. de 18 años) 4,000.00 3,000.00

**ESTRELLA SANTA CLARA**  
HOY NO HAY FUNCION

**CHOSICA**

**T. CHOSICA**  
Libertad 180  
4.00 7.00 10.00 OJO POR OJO (May. de 14 años) 4,000.00 3,000.00

**Trasnoche: 1.00 am. NOCHE EROTICA (May. de 18 años c. advert.)**

**PERU CH.**  
28 de Julio 378 T. 910553  
4.00 7.00 10.00 2010 EL AÑO QUE HACEMOS CONTACTO (APT) 4,000.00 2,500.00

**CALLAO**  
Sénez Peña 876 Telf. 658807  
3.45 6.45 9.45 TESTIGO EN PELIGRO (May. de 18 años) 7,000.00 5,000.00

**LA PERLA**  
Calle Brasil 818  
4.15 7.15 10.15 FUERA DE CONTROL (May. de 14 años) 2,400.00

**Trasnoche: SEXO ENDEMIADO además TRAMPA PARA MUJERES (May. de 18 años c. advert.)**

**PACIFICO**  
Ayacucho 1035 Telf. 296128  
4.00 7.00 10.00 SADMISMO SUEÑOS PROHIBIDOS (May. de 18 años) 3,000.00

**Trasnoche: 1.00 am. TENTACION SEXUAL (May. de 18 años c. advert.)**

**MONARCA**  
Los Condores 170 T. 510396  
4.00 7.00 10.00 EL ULTIMO DRAGON (APT) 7,000.00 6,000.00

**PORTENO**  
Sénez Peña 342 T. 658824  
3.30 6.45 9.45 LA CIUDAD DE LOS PERROS (May. de 18 años)

**Función de Media Noche: LA RUIBIA INSASIBABLE (May. 18 años Función Especial) - S/. 7,500.00**

**SAENZ PEÑA**  
Sénez Peña 1337 T. 658390  
4.00 7.00 10.00 ESCAPE A SIBERIA (May. de 14 años) 5,000.00 4,000.00

**Trasnoche: 1.00 am. EROTICA HISTORIA DE GLORIA además SIRENAS DEL PLACER (May. de 18 años c. advert.)**

**SANTA MARINA**  
Av. Argentina 568 T. 298769  
3.30 7.00 ANTES DE MEDIA NOCHE además PODRIAS CON 5 CHICAS A LA VEZ (May. de 18 años) 2,500.00

**PRIMOR**  
Pedro Ruiz Gallo 239  
4.00 7.00 9.30 MENSAJERO DE SATANAS (May. de 18 años) 2,000.00

**Trasnoche: JUVENTUD EROTICA (May. de 18 años c. advert.)**

**CHACLACAYO**

**CHACLACAYO**  
Los Cedros 1485  
NO HAY FUNCION

**VITARTE**  
Jr. Central  
4.00 7.00 10.00 BREAKDANCE (APT) 2,500.00

**CHOSICA**

**T. CHOSICA**  
Libertad 180  
4.00 7.00 10.00 OJO POR OJO (May. de 14 años) 4,000.00 3,000.00

**Trasnoche: 1.00 am. NOCHE EROTICA (May. de 18 años c. advert.)**

**PERU CH.**  
28 de Julio 378 T. 910553  
4.00 7.00 10.00 2010 EL AÑO QUE HACEMOS CONTACTO (APT) 4,000.00 2,500.00

**ADAN**  
Unión 905 Telf. 288480  
3.45 6.45 9.45 TESTIGO EN PELIGRO (May. de 18 años) 9,000.00

**ALCAZAR**  
Santa Cruz 814 Telf. 229807  
3.45 6.45 9.45 EL ULTIMO DRAGON (APT) 10,000.00 9,500.00

**ALHAMBRA**  
Los Zanjines 299 Tlf. 401695  
3.45 6.45 9.45 ESCUELA DEL DESORDEN (May. de 14 años) 10,000.00 10,000.00

**AMBASADOR**  
Pumacahu 2550 Telf. 701360  
4.30 7.30 10.30 EL PELOTON CHIFLADO (May. de 14 años) 10,000.00 9,000.00

**ARENALES AMBAR**  
Centro Comercial Arenales  
3.00 6.30 10.00 AMADEUS (May. de 14 años) 14,000.00

**ARENALES JADE**  
Centro Comercial Arenales  
3.30 7.00 10.30 AMADEUS (May. de 14 años) 14,000.00

**ARLEQUIN**  
Cuba 1130 Telf. 233781  
8.00 pm. ALFREDO BOURNOCLE  
Linda Isabel Chir "C E L O S"

**AUDITORIO MIRAFLORES**  
Larco 1150 (estano) T. 478378  
8.00 pm. Tito Salas. — Pilar Brescia "LA PEQUEÑA CHOZA"  
Bol. 6.00 pm.

**AUDITORIO SAN VICENTE**  
Av. Del Ejército 2402 (Cra. 111)  
8.00 pm. T. 489004

**3.00 6.00 8.00 LOS AMORES DE STRAUSS (APT) 9,000.00 - Niños 4,000.00**

**BRITANICA**  
Belavista 527 T. 479780 Miraf  
8.00 pm. VIAJE A LA TIERRA DE JALYA Y OTRAS PEREGRINACIONES DEL HAMBRE

**LEGUJA**  
Av. Arequipa 838 Telf. 236423  
8.30 10.30 pm. Exito APRENDIA A SER INFIEL con Betina Onetto y Etrán Aguilar

**AZUL**  
T. Cárdenas 450 Telf. 714443  
4.30 7.30 10.30 TESTIGO EN PELIGRO (May. de 18 años) 6,000.00 El pueblo lo hizo

**BIJOU**  
Unión 446 Telf. 282163  
11.00 1.45 3.45 6.45 9.45 TRAMPA PASIONAL (May. de 18 años) 9,000.00

**CANOTI**  
Petit Thouars 4550 Telf. 461328  
1.00 8.00 Piero Solari presenta el Gran Evento Cien Años DE ANCIANES ITALIANAS  
Solerita 10 a l y de 4 a 7 pm.

**CAPITOL**  
Árica 248 Telf. 245187  
1.30 7.30 10.30 EL ULTIMO DRAGON (APT) 8,000.00

**CENTRAL**  
Tacna 311 Telf. 237178  
1.30 6.30 9.30 TESTIGO EN PELIGRO (May. de 18 años) 9,000.00 10,000.00 Aguarunas

**CITY HALL**  
Venecia 1281 T. 233181  
1.30 6.30 9.30 ATADOS POR EL DESTINO (APT) 5,500.00 5,000.00

**Todo el mundo querrá saber lo que suena aquí adentro**

APULADORA EN EL FESTIVAL CANNES 85

**LA MIMICA DEL A...**

Una **LA CI...** Basada

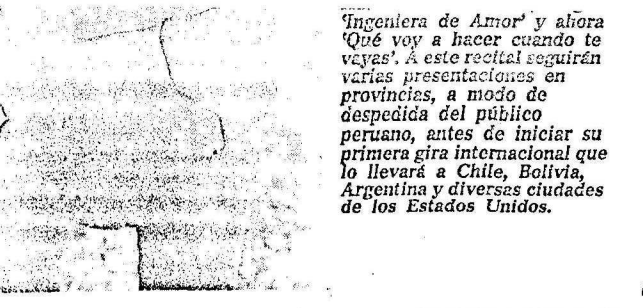
LUIS ALVAREZ LOPEZ  
Mayores de 18 años

ESTRENO **HOY**

Benita y Gaby actuando en la reconocida "Velo Blanco, Velo Negro".

Integran la agrupación diez músicos y un coro de seis cantantes soneros que, además, bailan y animan. Según explicaron, a

para presentarse en Huaral el día 27. Luego el 28 actuará en Chosica.



"Ingeniera de Amor" y ahora "Qué voy a hacer cuando te vayas". A este recital seguirán varias presentaciones en provincias, a modo de despedida del público peruano, antes de iniciar su primera gira internacional que lo llevará a Chile, Bolivia, Argentina y diversas ciudades de los Estados Unidos.

EL COMERCIO  
24/07/19

### Nina Mutal en la Feria

La rockera Nina Mutal reaparecerá en la Feria del Hogar pero, esta vez, actuando como solista. Ella promoverá su reciente producción discográfica titulada "Cuerpo a Cuerpo", que le está dando mayor popularidad, así como "Tú, mi Canción" y "Loco Amante". Nina abrirá la "Hora Juvenil" en el Auditorium, desde mañana hasta el sábado de 6 a 7 p.m.

## Presentan espectáculo de música negra

El grupo de música negra 'Ebano y Marfil' se presentará hoy en el Teatro Canout. Este grupo está integrado por Leandro Reyes, director, voz y bajo; Carlos Mosquera, voz y congas; Fernando Gonzáles, cajón y coros; Adolfo Zelada, primera guitarra; Carlos Pastor, bajo electrónico; Italo Elena, percusión menor y efectos; y las voces de Vicky y Ana María Leyva, Adriana Lévano,

Ebelin Ortiz y Daniel Carpio. El nombre de 'Ebano y Marfil' fue elegido porque representa la fusión del mestizaje y por estar integrada por negros y blancos unidos por el mismo sentimiento, mezclándose a la vez instrumentos creados tanto por blancos y negros, como el bajo y los tambores. El espectáculo consistirá exclusivamente de música negra.

# Listín cinematográfico

**A.B.C. SAN BORJA**  
Ucúlo 172 San Borja  
4.00 7.00 10.00 **TU BUCK AL RESCATE** (APT) S/. 1.50

**ADAN**  
Unión 805 Telf. 288460  
3.30 6.30 9.30 **"REVANCHA MOR-TAL"** (May. de 18 años) S/. 1.00

**ALCAZAR**  
Sante Cruz 814 Telf. 228907  
3.30 6.30 9.25 **"LAS TORTUGAS NINJA II"** (APT) S/. 1.50

**ALHAMBRA**  
Los Jardines 289 Tt. 401685  
4.00 7.00 10.00 **LAS TORTUGAS NINJA II EL SECRETO DE OOOZ** (APT) S/. 1.30  
Biblioteca abierta a las 3.30 p.m. para vermouth sábados, domingos y feriados.

**AMBASADOR**  
Pumacahu 2550 Telf. 701360  
PROXIMA REAPERTURA

**ARENALES AKBAR**  
Centro Comercial Arenales  
3.45 6.45 9.45 **"LA HOGUERA DE LAS VANIDADES"** (Mayores de 18 años) S/. 1.50

**ARENALES JADE**  
Centro Comercial Arenales  
3.45 6.45 9.45 **"FURIA SALVAJE"** (May. de 18 años) S/. 1.50

**ARLEQUIN**  
Cuba 1130 Telf. 227791  
6.00 p.m. Teddy Guzmán en "LO-CADEMIA DE LA RISA".

**AUDT. ANTONIO RAIMONDI**  
Alejandro Turodo 274-Lima (Cdra. 120 Av. Arequipa) T. 712893  
Día viernes 26. 6.30 8.00 p.m. "EL INQUILINO".

**AUDITORIO MINISTERIO DE TRABAJO**  
Día domingo 28. "LOCADENIA DE POLICIA" 4"

**AUDITORIO SANTA ELISA**  
Callimoe 824 Telf. 322841  
Día jueves 25. "UN MUJERIEGO EN APUROSO" (May. de 14 años)

**AUDITORIO MIRAFLORES**  
Larco 1160 (edatmo) T. 479378  
8.00 p.m. Dto sahas en la divertidí-sima comedia: "SEGUNDA LUNA DE MIEL" con Ruth Razzeto, Anita Sarabia y Lucía Melcar.

**BJJO**  
Unión 446 Telf. 262163  
11.00 1.30 3.30 6.30 9.15 **FURIA SALVAJE** (May. de 18 años) S/. 1.30

**CANOUTI**  
Petit Thouars 4550 Telf. 461328  
De jueves a domingo 6.00 p.m. Piero Solari en "EL MAGO" (APT). últimos días 6.00 p.m. de jueves a domingo, producciones EIKON, presenta 60 AÑOS DE LA CANCIÓN POPULAR INTER-NACIONAL DEL 40 al 80.

**CAPITOL**  
Artes 248 Telf. 245187  
4.15 7.15 10.15 **EL ARMA PER-FECTA** (May. de 14 años) S/. 1.00

**CENTRAL**  
Tacna 311 Telf. 273178  
3.45 6.45 9.45 **EL ARMA PER-FECTA** (May. de 14 años) S/. 1.00

**CIEN DE MAYO**  
Venezuela 661 T. 233181  
3.45 7.30 "EL PRIMER AMOR NO SE OLVIDA" (APT) S/. 0.90 0.70

**COLINA**  
Berlín Telf. 458537  
3.30 6.30 9.30 **EL BOXEADOR CA-LLEJERO** (May. de 18 años) S/. 1.50 1.30

**COLON**  
Unión 1004 Telf. 247784  
1.30 3.30 6.00 9.30 "SEXO PRO-HIBIDO" (May. de 18 años) S/. 1.50 1.30 0.80  
Frasnoche: 12.30 "UN OBJETO SEXUAL" (May. de 18 años c. ad-vert.)

**CONCORDE**  
Av. P. Thouars 1563 T. 718235  
4.15 7.15 10.15 **EL BOXEADOR CALLEJERO** (May. de 18 años) S/. 1.50 1.30

**CONQUISTADOR**  
Av. España 241 Telf. 246180  
4.00 7.00 9.45 "FURIA SALVAJE" (May. de 18 años) S/. 1.30

**COLMENA**  
N. de Piérola 518 Telf. 864255  
4.30 7.30 10.30 **SADISMO PRO-HIBIDO** (May. de 18 años) S/. 1.20 1.00

**COUNTRY**  
H. Unanue 442 Telf. 702380  
4.00 7.00 10.00 **MUJER BONITA** (May. de 14 años) S/. 1.30 1.20

**CONDE DE LENOS**  
Huánuco 889 Telf. 285801  
4.30 7.30 10.30 **CHICAS EN CA-LABO** (May. de 18 años) S/. 0.70

**DIAMANTE**  
Av. Brasil 851 Telf. 314212  
4.00 7.00 10.00 **EL BOXEADOR CALLEJERO** (May. de 14 años)

**EL PACIFICO**  
Pardo y Diagonal Telf. 456993  
3.45 6.45 9.45 **EL ARMA PER-FECTA** (May. de 14 años) S/. 1.50 1.30

**EVA**  
Unión 805 Telf. 288460  
3.30 6.30 9.30 **LAS TORTUGAS NINJA II** (APT) S/. 1.00

**EXCELSIOR**  
Unión 760 Telf. 279947  
11.30 1.30 3.30 6.30 9.30 "SEN-TENCIA DE MUERTE" (May. de 14 años) S/. 1.10 1.00

**FELIPE PARDO Y ALLAGA**  
6.30 a 9.30 p.m. Actividad Folklori-ca "CENTRO DE FOLKLORE SAN MARCOS".

**FIORI**  
Centro Comercial Fiori

**IDOLO**  
A. Camarita 424 Telf. 635230  
4.30 7.30 10.30 **YO Y EL** (May. de 18 años)

**GRAU**  
4.30 7.30 10.30 **LAS TORTUGAS NINJA II** (APT) S/. 0.90 0.70

**IMPENIO**  
Av. Tacna 225 Telf. 271365  
3.45 6.45 9.45 "CHUCKY EL MU-NECO DIABOLICO II" (May. de 18 años) S/. 1.00

**JULIETA**  
Puerta 115  
3.30 6.30 9.30 "CYRANO DE BER-GERAC" (May. de 14 años) S/. 1.50

**LÁTINO**  
Tarrapaca 455 Telf. 812748  
3.30 6.30 9.30 **FURIA SALVAJE** (May. de 18 años) S/. 1.00

**LE PARIS**  
N. de Piérola 757 T.278258  
2.00 3.30 6.00 6.30 8.00 9.30 Funci-ones continuadas "BOCAS CAR-ROSAS" (May. de 18 años) S/. 1.50  
Frasnoche: 11.15 12.30 **ESPECIA-LISTAS DEL PLACER** además TRAMPA PASIONAL (May. de 18 años c. advert.)

**LIDO**  
Moguegua 6688 Telf. 233941  
4.00 7.00 10.00 **SENTENCIA DE MUERTE** (May. de 14 años) S/. 1.00

**MANTARO**  
Emancipación 418 Telf. 278522  
3.45 6.45 9.45 **LAS TORTUGAS NINJA II** (APT) S/. 1.00

**MARIATEGUI**  
Huáscar 1664-Tlf 319327  
4.30 7.30 10.30 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 1.00

**MARSANO**  
G. Suárez 409 Telf.457347  
8.00 pm Osvaldo Catone, Regina Alcover en VIDAS PRIVADAS

**NETRO**  
Carabaya 817 Telf. 284954  
3.30 6.30 9.30 **LAS TORTUGAS NINJA II** (APT) S/. 1.20 1.00

**METROPOLITAN**  
Íquitos 737 Telf. 311618  
4.15 7.15 10.15 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 0.80

**MEXICO**  
Huancavelica 770 Telf. 245442  
A partir de las 3.30 p.m. "EL DE-RECHO DE AMAR" además "AMOR Y DESEO" (May. de 18 años) S/. 1.00

**MONTECARLO**  
E. Aguirre 478 T. 455037

**ODEON**  
Av. Manco Cápac 669  
4.30 7.30 10.30 "LAS TORTUGAS NINJA II" "EL SECRETO DE OOOZ" (APT) S/. 1.00 0.80

**ORRANTIA**  
Av. Arequipa 2701 T. 224407  
4.00 7.00 10.00 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 1.50

**OPERA**  
Cdr. Garzón 1100 Jesús Meriz Telf. 315325

**PALACE ATENEA**  
Ricardo Palma 125 T. Miraflores  
6.15 p.m. El impugnable Jorge Be-navides "J.B. EL DIGITADOR".

**PALONGINO**  
Cra. 28 Av. Venezuela  
4.15 7.15 10.30 **LA HIDA DEL PLA-CER** (May. de 18 años) S/. 0.50

**PLAZA**  
Ochoa 110 Telf. 286942  
3.45 6.45 9.45 **EL BOXEADOR CA-LLEJERO** (May. de 14 años) S/. 1.00

**PORTOFINO**  
Colmena 423 Telf. 236014  
3.30 6.30 9.30 **FURIA SALVAJE** (May. de 18 años) S/. 1.50 1.40

**PREMIER**  
Grau 1000 T. 771408  
4.15 7.15 10.15 **FURIA SALVAJE** (May. de 18 años) S/. 1.00

**REAL I**  
Centro Camino Real  
4.15 6.15 9.15 **TU BUCK AL RES-CATE** (May. de 14 años) S/. 1.50

**REAL 2**  
Centro Camino Real  
3.00 6.15 9.30 **EL PADRINO AL-CEAR EN VIDAS PRIVADAS** S/. 1.50

**REPUBLICA**  
Carabaya 1180 Telf. 284803  
4.00 7.00 10.00 **EL BOXEADOR CALLEJERO** (May. de 18 años) S/. 1.00 0.80

**RITZ**  
A. Ugarte 1431 Telf. 237583  
2.30 4.30 7.30 10.30 **VEN A MI CAMA** (May. de 18 años) S/. 0.70 0.65

**ROMA**  
E. Fernández 242 T. 330618  
4.00 7.00 10.00 **CYRANO DE BER-GERAC** (APT) S/. 1.30 1.00

**ROMEO**  
Puerta 116  
3.30 6.30 9.30 "LINEA MORTAL" (May. de 18 años) S/. 1.50

**SALAMANCA**  
Av. Circunvalada  
4.30 7.30 10.30 **DARKMAN EL ROSTRO DE LA VENGANZA** (May. de 18 años) S/. 0.80

**SAN ANTONIO**  
Benavides 1045 Telf. 468142

**SAN FELIPE**  
Valdivia 693 T. 634090  
4.15 7.15 10.15 **LAS TORTUGAS NINJA II** (APT) S/. 1.30

**SALA GARCIA LORCA**  
CENTRO ESPAÑOL DEL PERU  
Av. Salaverry 1910 T. 717027

**SAN ISIDRO**  
P. Thouars 2894 Telf. 407331  
4.00 7.00 10.00 **LA HOGUERA DE LAS VANIDADES** (May. de 18 años) S/. 1.00

**SUPER HALL**  
Av. México 866 T. 781669  
4.30 7.30 10.30 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 1.00

**TEATRO BRITANICO**  
Bellevue 527 Miraflores  
Telfs. 478760, 468511  
8.15 p.m. Último día de éxito "EN-SAYO" presenta la obra "YE-PTO" con Ricardo Blume y Diego Bertie. Director Luis Peirano.

**TEATRO GATA CALIENTE**  
Berlín 221 Telfs. 478263

**TEATRO ALIANZA FRANCESA-LINA**  
Av. Garrelano de la Vega N° 1560  
T. 296130

**TEATRO MONOS Y MONADAS**  
León Velarde 171 Telf. 718663

**MANANA JUEVES** a las 7.30 pm se picarda el estruño: "EL DE-SEADO" de Nicolás Yerovi

**TACNA**  
Av. Tacna 852 - Telf. 233646  
3.45 6.45 9.45 **EL BOXEADOR CA-LLEJERO** (May. de 18 años) S/. 1.20 1.00 0.80

**TAURO**  
Washington 888 T. 320188  
4.00 7.00 10.00 "LINEA MORTAL" (May. de 14 años) S/. 1.20 1.00

**TEATRO ALIANZA FRANCESA-MIRAFLORES**  
De jueves a sábado 8.00 p.m. "VIC-TOR O LOS NIÑOS AL PODER" S/. 2.50 Estudiantes 1.50

**TEATRO EL DIABLO**  
1° Cdra. Av. Larco Telf. 237781  
8.30 p.m. Teddy Guzmán "EL RE-VENTON DE LA RISA".  
Irsenoche: 10.30 p.m. "MAS ALLA DEL DESEO" (Solo para adultos)

**TEATRO JUAN PARRA DEL RINCO**  
Av. Pedro de Osma 135 Telf. 774590  
De viernes a Junes 8.00 p.m. Te-atro Taller Totem en "SI SI SI: SI NO NO NO"

**TEATRO LARCO**  
Av. Larco 1038 Miraflores  
De jueves a Junes 8.00 p.m. "LA CONQUISTA DEL POLO SUR" con Marco Almeida, Katali Condos. Dirección: Alberto Isola.

**VENEZIA**  
Nicolás de Piérola 207 T. 825864  
2.30 4.00 5.30 7.00 8.30 9.30 Funci-ones continuadas "EMMANUE-LLE LA PRIMA" (May. de 18 años) S/. 1.50

**VENUS**  
Huáscar 368 T. 456827  
2.00 4.30 7.30 **GARGANTA PRO-FUNDA** además **CELDAS CA-LIENTES** (May. de 18 años) S/. 0.80

**VISION**  
Parrucchachas 850 Telf. 243717  
4.15 7.15 10.15 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 1.00

**COMAS**

**CERCADO**

**ALFA**  
R. Torrico 256 T. 282678  
CERRADO POR REPACCION  
4.15 7.15 10.15

**OMNIA L.**  
Av. Abancay 835 T. 284397  
11.30 2.15 4.30 7.00 10.00 "LAM-BADA BALLE PROHIBIDO" (May. de 18 años)

**EARRIOS ALTOS**

**ALAMEDA**  
Gran 11708  
3.45 6.45 9.45 **FIONA LA ULTRA EROTICA** (May. de 18 años) S/. 0.70 0.60

**BOLIVAR**  
Andchuyas 1138 T. 274159  
3.30 6.30 a 9.30 **INOCENCIA Y DESEO** además **LA VENGADORA DE LA NOCHE** (May. de 18 años) S/. 1.00 0.80

**FCO. PIZARRO**  
Huanta 768 T. 275576  
3.30 6.30 9.30 **EL BOXEADOR CA-LLEJERO** (May. de 18 años) S/. 1.00

**UNION**  
Huanta 741 T. 737807  
4.30 7.30 10.30 **LOS DESPIA-DADOS** (May. de 18 años) S/. 1.00

**SAN MARTIN DE PORRES**

**CASTILLA**  
Pocitos 255 T. 812600  
DESCANSO DE PERSONAL

**LAS PALMERAS**  
Urb. La Palmeras

**VENEZIA**  
Nicolás de Piérola 207 T. 825864  
2.30 4.00 5.30 7.00 8.30 9.30 Funci-ones continuadas "EMMANUE-LLE LA PRIMA" (May. de 18 años) S/. 1.50

**VENUS**  
Huáscar 368 T. 456827  
2.00 4.30 7.30 **GARGANTA PRO-FUNDA** además **CELDAS CA-LIENTES** (May. de 18 años) S/. 0.80

**MADRID**  
Av. Alcázar s/n Rímac  
4.15 7.15 10.15 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 0.70

**COMAS**

**CERCADO**

**TUFAC AMARU**  
Av. Yuncu Amaru 1022  
Sala Sur: 4.00 7.00 10.00 "IM-PEPIO DE LA COCA" (May. de 18 años) S/. 0.28 0.20 0.15

**RELY**  
R. Los Pinos 247 Comas  
4.15 7.15 10.15

**BREÑA**

**FANTASIA**  
Venezuela 1132 Telf. 244384  
4.30 7.30 10.30 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 0.80

**PATTY**  
Jorge Chávez 1158 T. 245853  
4.15 7.15 10.00 **SEXO ARDIENTE** (May. de 18 años) S/. 0.70

**LA VICTORIA**

**BEVERLY**  
Manco Cápac 135 Tlf. 317264  
4.15 7.15 10.15 "EL DERECHO DE AMAR" (May. de 18 años) S/. 0.70

**HUAYO**  
Huánuco 2287 T. 726873  
4.00 7.00 10.00 **TRAFICANTES DEL SEXO** (May. de 18 años)

**OLIMPO**  
Euseate y Mesa 338 T.326735

**GLORIA**  
Av. Gran Chimú 1058  
4.00 7.00 9.30 "EL CAPITAN AMERICA" en colores S/. 0.80

**MAGDALENA**

**BRASIL**  
Av. Brasil 3222  
4.30 7.30 10.30 **ARMA PERFECTA** (May. de 14 años)

**BROADWAY**  
Brasil 3542 Tlf. 618327  
4.30 7.30 10.30 **"LAS TORTUGAS NINJA II"** (APT) S/. 0.70

**GARDEL**  
Bolognesi 264

**SAN JUAN**

**SUSY**  
Fechatect T. 670548  
4.00 7.00 10.00 "CHUCKY EL MU-NECO DIABOLICO, PRIMERA PARTE" (May. de 18 años) S/. 0.50

**SURQUILLO**

**MANTRIL**  
Inca 858 T. 450883  
4.00 7.00 9.45 **LAS TORTUGAS NINJA II** (APT) S/. 0.70

**PRIMAVERA**  
Primavera 714 T. 454187  
3.30 6.30 9.30 **EL BOXEADOR CA-LLEJERO** (May. de 14 años) S/. 0.70 0.60

**VILLA MARIA**

**VILLA MARIA**  
Av. El Triunfo 631

**VILLA EL SALVADOR**

**MADRID**  
DESCANSO DEL PERSONAL

**CHORRILLOS**

**SANTA CLARA**

**ESTRELLA SANTA CLARA**  
DESCANSO DE PERSONAL

**CALLAO**  
Sáenz Peña 878 Telf. 658287  
3.30 6.30 9.30 **LAS TORTUGAS NINJA II** (APT) S/. 0.80 0.60

**LA PERLA**  
Calle Brasil 618

**MONARCA**  
Los Condores 170 T. 510386  
4.15 7.15 10.00 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 1.20 1.00

**PACIFICO**  
Avenuecho 1035 Telf. 296128  
3.45 6.45 9.45 pm. **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 1.00 1.00

**PORVENIO**  
Sáenz Peña 312 T. 658924  
3.45 6.45 9.45 **EL BOXEADOR CA-LLEJERO** (May. de 14 años) S/. 1.10 1.00

**SAENZ PEÑA**  
Sáenz Peña 1337 T. 860380

**CHACLACAYO**

**CHACLACAYO**  
Los Cedros 1825  
DESCANSO DE PERSONAL

**VITARTE**

**VITARTE**  
Jr. Central  
4.00 7.00 10.00 "ADOLESCENTE DEL PLACER" (May. de 18 años)

**CHOSICA**

**T. CHOSICA**  
Libertad 180  
4.00 7.00 10.00 **SOLO PARA ADULTOS** (May. de 18 años)

**PERU CH.**  
28 de Julio 376 T. 810553  
4.00 7.00 10.00 "SOLO PARA ADULTOS" (May. de 18 años) S/. 0.70 0.50

**MARSANO**  
G. Suárez 409 Telf.457347  
8.00 pm Osvaldo Catone, Regina Alcover en VIDAS PRIVADAS

**NETRO**  
Carabaya 817 Telf. 284954  
3.30 6.30 9.30 **LAS TORTUGAS NINJA II** (APT) S/. 1.20 1.00

**METROPOLITAN**  
Íquitos 737 Telf. 311618  
4.15 7.15 10.15 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 0.80

**RITZ**  
A. Ugarte 1431 Telf. 237583  
2.30 4.30 7.30 10.30 **VEN A MI CAMA** (May. de 18 años) S/. 0.70 0.65

**ROMA**  
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4.00 7.00 10.00 **CYRANO DE BER-GERAC** (APT) S/. 1.30 1.00

**ROMEO**  
Puerta 116  
3.30 6.30 9.30 "LINEA MORTAL" (May. de 18 años) S/. 1.50

**SALAMANCA**  
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4.30 7.30 10.30 **DARKMAN EL ROSTRO DE LA VENGANZA** (May. de 18 años) S/. 0.80

**SAN ANTONIO**  
Benavides 1045 Telf. 468142

**SAN FELIPE**  
Valdivia 693 T. 634090  
4.15 7.15 10.15 **LAS TORTUGAS NINJA II** (APT) S/. 1.30

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CENTRO ESPAÑOL DEL PERU  
Av. Salaverry 1910 T. 717027

**SAN ISIDRO**  
P. Thouars 2894 Telf. 407331  
4.00 7.00 10.00 **LA HOGUERA DE LAS VANIDADES** (May. de 18 años) S/. 1.00

**SUPER HALL**  
Av. México 866 T. 781669  
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Berlín 221 Telfs. 478263

**TEATRO ALIANZA FRANCESA-LINA**  
Av. Garrelano de la Vega N° 1560  
T. 296130

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León Velarde 171 Telf. 718663

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3.45 6.45 9.45 **EL BOXEADOR CA-LLEJERO** (May. de 18 años) S/. 1.20 1.00 0.80

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4.00 7.00 10.00 "LINEA MORTAL" (May. de 14 años) S/. 1.20 1.00

**TEATRO ALIANZA FRANCESA-MIRAFLORES**  
De jueves a sábado 8.00 p.m. "VIC-TOR O LOS NIÑOS AL PODER" S/. 2.50 Estudiantes 1.50

**TEATRO EL DIABLO**  
1° Cdra. Av. Larco Telf. 237781  
8.30 p.m. Teddy Guzmán "EL RE-VENTON DE LA RISA".  
Irsenoche: 10.30 p.m. "MAS ALLA DEL DESEO" (Solo para adultos)

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Av. Pedro de Osma 135 Telf. 774590  
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De jueves a Junes 8.00 p.m. "LA CONQUISTA DEL POLO SUR" con Marco Almeida, Katali Condos. Dirección: Alberto Isola.

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Huáscar 368 T. 456827  
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**VISION**  
Parrucchachas 850 Telf. 243717  
4.15 7.15 10.15 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 1.00

**COMAS**

**CERCADO**

**ALFA**  
R. Torrico 256 T. 282678  
CERRADO POR REPACCION  
4.15 7.15 10.15

**OMNIA L.**  
Av. Abancay 835 T. 284397  
11.30 2.15 4.30 7.00 10.00 "LAM-BADA BALLE PROHIBIDO" (May. de 18 años)

**EARRIOS ALTOS**

**ALAMEDA**  
Gran 11708  
3.45 6.45 9.45 **FIONA LA ULTRA EROTICA** (May. de 18 años) S/. 0.70 0.60

**BOLIVAR**  
Andchuyas 1138 T. 274159  
3.30 6.30 a 9.30 **INOCENCIA Y DESEO** además **LA VENGADORA DE LA NOCHE** (May. de 18 años) S/. 1.00 0.80

**FCO. PIZARRO**  
Huanta 768 T. 275576  
3.30 6.30 9.30 **EL BOXEADOR CA-LLEJERO** (May. de 18 años) S/. 1.00

**UNION**  
Huanta 741 T. 737807  
4.30 7.30 10.30 **LOS DESPIA-DADOS** (May. de 18 años) S/. 1.00

**SAN MARTIN DE PORRES**

**CASTILLA**  
Pocitos 255 T. 812600  
DESCANSO DE PERSONAL

**LAS PALMERAS**  
Urb. La Palmeras

**VENEZIA**  
Nicolás de Piérola 207 T. 825864  
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**VENUS**  
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**MADRID**  
Av. Alcázar s/n Rímac  
4.15 7.15 10.15 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 0.70

**COMAS**

**CERCADO**

**TUFAC AMARU**  
Av. Yuncu Amaru 1022  
Sala Sur: 4.00 7.00 10.00 "IM-PEPIO DE LA COCA" (May. de 18 años) S/. 0.28 0.20 0.15

**RELY**  
R. Los Pinos 247 Comas  
4.15 7.15 10.15

**BREÑA**

**FANTASIA**  
Venezuela 1132 Telf. 244384  
4.30 7.30 10.30 **EL BOXEADOR CALLEJERO** (May. de 14 años) S/. 0.80

**PATTY**  
Jorge Chávez 1158 T. 245853  
4.15 7.15 10.00 **SEXO ARDIENTE** (May. de 18 años) S/. 0.70

**LA VICTORIA**

**BEVERLY**  
Manco Cápac 135 Tlf. 317264  
4.15 7.15 10.15 "EL DERECHO DE AMAR" (May. de 18 años) S/. 0

para escribir la "vida, obra y milagros" de la, desde hace pocos días, madre de la patria.

En sólo tres sesiones de cuatro horas cada uno, con grabadora en mano y cierto humor propio de los más cándidos, Chavez Toro coge al "toro por las astas" y apela en un interrogatorio a la memoria de Susy Díaz. Nada fácil la tarea.

¿Qué contiene el libro de 116 páginas con un reveladora y cuestionada carátula, (que la censura no admite describir)?

Nada menos que trece capítulos (porque el 13 trae buena suerte) en

y franca, (Zai esto susy) y con humor "Chavez-Toro", a la figura que a pesar de recibir billones de críticas, es también la que acapara en estos últimos tiempos la mayor atención local, y pese a quien le pese, internacional.

Porque, ya lo dijo Chavez Toro, "Susy tiene esa inteligencia extraña, que ha permitido al hombre peruano sobrellevar tantos problemas" y con buen recaudo agrega, "No tengo nada más que decir en mi defensa".

**HABLA SUSY**  
"Yo no tengo la culpa de la tapa",

die, ellos son votado por porque soy como soy, con mi trece encima".

Para Patricia Pardo de Prado, personaje de Claudia Dammert, "Susy muestra su humildad y modestia. Sólo se puso un 13 (casi una jalada) y merecía cuando menos un 18" y le aconseja con esa sabiduría popular, "Chuchi, darling, bienvenida seas a las páginas de la historia, (que también es mujer y ha sido violada varias veces), no pierdas tu identidad, tu sentido del humor o tu espontaneidad, porque la decencia se lleva en el alma".

—Patricia CASTRO OBANDO

**CINE CLUB SANTA ELISA**  
(Cailloma 824)  
Zona Mortal de John Badham. Con Wesley Snipes. 3.30, 6.30 y 8.30 p.m.  
**EL CINEMATOGRAFO**  
(Pérez Roca 196, Barranco)  
Madame Bovary de Claude Chabrol. Con Isabelle Huppert. 4.00, 6.30 y 9.00 p.m.  
**FILMOTECNA DE LIMA**  
(Museo de Arte)  
La Ley y los Fuera de la Ley en el Cine Americano: 'Será Justicia' de Sidney Lumet. 6.00 p.m.

son Flying, de 1967, pintada especialmente para el artista y adaptada por éste para tocar con la mano izquierda.

Hendrix fue fotografiado por primera vez ejecutando este instrumento en el 'Fifth Dimension Club', en la ciudad universitaria de Ann Arbor, en Michigan, en agosto de 1967.

El chaleco de plumas de pavo real de Hendrix, de estilo psicodélico, fue confeccionado para su actuación en 'Experience's', en el Fillmore East, el 10 de mayo de 1968.

El texto manuscrito de McCartney de 'Getting Better', también de 1967,

alfombra decorada con un tigre y el nombre bordado del artista, cuyo valor ha sido estimado entre 5 mil y 6 mil libras.

La guitarra Gibson que utilizara Pete Townshend (del grupo 'WHO') en el ya casi legendario concierto de Woodstock será subastada con un precio base de entre 12 mil y 15 mil libras.

La casa Sotheby's fue la primera en introducir hace 14 años la venta de este tipo de recuerdos que apasiona a los coleccionistas y espera en que esta edición se convierta en la mejor de las realizadas hasta ahora.

EL COMERCIO  
30/07/1995



**CINE**

DOMINGO 30 DE JULIO

**A.B.C. SAN BORJA 1**  
Uccello 172 San Borja Telf. 753120  
3.00 5.00 7.00 9.00 "GASPARIN" APT. 8.00  
**A.B.C. SAN BORJA 2**  
3.00 5.00 7.00 9.00 "POCAHONTAS" APT. 8.00  
ADAN  
Unión 805 Telf. 288480  
3.30 6.30 9.30 "GASPARIN" (APT) 4.00

**ALCAZAR 1**  
Santa Cruz 814 Telf. 4226245  
3.00 5.15 7.30 10.00 "POCAHONTAS" APT. 10.00  
**ALCAZAR 2**  
3.00 5.15 7.30 9.45 "BATMAN ETERNAMENTE" 10.00  
**ALCAZAR 3**  
3.00 5.15 6.45 9.45 "GASPARIN" (APT) 10.00  
**ALCAZAR 4**  
3.00 5.00 7.00 9.00 "GASPARIN" APT. 10.00

**ALHAMBRA**  
Los Jazmines 299 Telf. 401895  
3.30 5.30 7.15 9.15 "GASPARIN" Men. 8.00  
**BRUCE VIDEGRAMA CLUB**  
Av. México N° 666  
3.30 5.30 7.30 9.30 "SOLO PARA ADULTOS" May. 18; 3.00  
Cine-Club "EL SIGLO DEL CINE"  
C. Ricardo Palma Av. Larco 770 Miraflores Tels.: 4463958  
6.00 "CAIDOS DEL CIELO" 8.00 "LA CIUDAD Y LOS PERROS" 5.00

**ARENALES AMBAR**  
Centro Comercial Arenales  
11.00 1.30 "POCAHONTAS" - 3.30 5.30 7.30 9.30 "GASPARIN" (APT) 8.00  
**ARENALES JADE**  
Centro Comercial Arenales  
12.30 3.00 5.15 7.30 10.00 "BATMAN ETERNAMENTE" APT. 8.00  
**AUDITORIO SANTA ELISA**  
3.30 6.00 8.30 "LOS TRES MOSQUETEROS" (APT)

**AVIACION 1**  
Av. Aviación Cdra. 24 Esq. con Tiziano 100 Telf. 757686  
3.15 5.15 7.15 9.45 "BATMAN ETERNAMENTE" (APT) 8.00  
**AVIACION 2**  
3.45 6.45 9.45 "BATMAN ETERNAMENTE" APT. 8.00  
**AVIACION 3**  
4.00 7.00 10.00 "DURO DE MATAR LA VENGANZA" (APT) 8.00  
**BIJOU**  
Unión 446 Tlf. 282163  
12.30 2.30 4.30 6.30 8.30 "BATMAN ETERNAMENTE" (APT) 6.00

**CENTRAL**  
Tacna 311 Telf. 273178  
3.30 6.30 9.30 "BATMAN ETERNAMENTE" APT. 4.00  
**CITY HALL**  
Av. Veneruela 681 T. 233191  
3.30 7.15 "EL PETISO QUE ROBO MI CORAZON" APT. 4.00 3.00  
**CINE ARTE LA MOLINA**  
Universidad Agraria Av. La Universidad s/n T. 4352035  
4.00 REY LEON (APT) 6.00 8.30 "RAPSODIA EN MIAMI" May. 14; 6.00

**COLINA**  
Berlín Telf. 459837  
4.00 7.00 10.00 "POCAHONTAS" APT. 6.00 8.00  
**COLMENA**  
N. de Piérola 519 Telf. 284525  
10.00 a.m. a 11.00 p.m. "SOLO PARA ADULTOS" May. 18; 4.00 3.00

**CONCORDE 2**  
Av. P. Thouars 1583 T. 718235  
4.15 7.15 10.15 "GASPARIN" APT. 5.00 4.00  
**CONQUISTADOR**  
Av. España 241 Telf. 246160  
2.00 POCAHONTAS (APT) 4.00 7.00 9.45 "BATMAN ETERNAMENTE" May. 14; 4.00  
**CONDE DE LEMOS**  
4 a 10 p.m. "SOLO PARA ADULTOS" May. 18; 2.50  
**DIAMANTE**  
Av. Brasil 851 Telf. 314312  
4.15 7.15 10.15 "MILAGRO EN LA CALLE 34" May. 14; 4.00

**EVA UNION 805 Telf. 288460**  
4.00 7.00 9.30 pm. "POCAHONTAS" APT. 4.00  
**EXCELSIOR 1**  
12.00 m. a 10.00 p.m. "SOLO PARA ADULTOS" May. 18; 3.00  
**EXCELSIOR 2**  
12.00 m. a 10.00 p.m. "UN POEMA DE AMOR" (APT) 4.00  
**EXCELSIOR 3**  
12.20 2.20 4.20 6.20 "BATMAN ETERNAMENTE" (APT) 5.00  
**EXCELSIOR 4**  
12.40 2.40 4.40 6.40 "BATMAN ETERNAMENTE" (APT) 5.00  
**EXCELSIOR 5**  
1.00 3.00 6.00 "BATMAN ETERNAMENTE" (APT) 5.00

**GRAU**  
Av. Grau  
4.30 7.30 10.30 "BATMAN ETERNAMENTE" APT. 3.00  
**IMPERIO**  
Av. Tacna 225 Telf. 271385  
2.30 a 11.00 p.m. "SOLO PARA ADULTOS" May. 18; 2.00  
**JULIETA**  
Porta 115 Telf. 440135  
3.45 6.45 9.45 "BATMAN ETERNAMENTE" (APT) 8.00

**LE PARIS N° 1**  
N. de Piérola 757 T. 278659  
10.15 11.30 1.00 2.30 4.00 5.30 7.00 8.30 10.00 p.m. "SOLO PARA ADULTOS" May. 18; 4.00  
**LE PARIS N° 2**  
10.15 11.30 1.00 2.30 4.00 5.30 7.00 8.30 10.00 "SOLO PARA ADULTOS" May. 18; 4.00

**LIDO 1**  
Mozqueus 568 Telf. 233941  
3.30 5.30 7.30 "BATMAN ETERNAMENTE" (APT) 5.00  
**LIDO 2**  
3.00 5.30 7.30 "POCAHONTAS" (APT) 4.00  
**METRO**  
Carabaya 917 Telf. 284954  
3.00 5.00 6.45 8.45 "POCAHONTAS" APT. 4.00 3.00  
**METROPOLITAN**  
Iquitos 737 Telf. 311618  
4.30 8.00 "EL PETISO QUE ROBO MI CORAZON" (APT) 3.50

**MEXICO**  
Huancavelca 770 Telf. 245442  
De 2.00 a 9.00 "SOLO PARA ADULTOS" May. 18; 3.00  
**ORRANTIA 1**  
Av. Arequipa 2701 T. 224407  
3.30 5.30 7.30 9.30 "BATMAN ETERNAMENTE" (APT) 10.00  
**ORRANTIA 2**  
3.30 5.30 7.30 9.30 "LAS AVENTURAS DE PRISCILLA REINA DEL DESIERTO" May. 14; 10.00  
**ORRANTIA 3**  
4.00 6.00 10.00 "LA ESTRATEGIA DEL CARACOL" May. 14; 10.00  
**PLAZA 1**  
Ocoña 110 Telf. 286042  
3.15 5.30 7.45 9.45 "BATMAN ETERNAMENTE" APT. 4.00  
**PLAZA N° 2**  
3.30 5.30 7.30 9.30 "GASPARIN" (APT) 4.00

**PORTOFINO**  
Colmena 423 Telf. 230014  
3.30 6.30 9.15 "BATMAN ETERNAMENTE" APT. 4.50 4.00  
**PREMIER**  
Grau 1009 Telf. 771408  
4.20 7.45 10.30 "BATMAN ETERNAMENTE" APT. 7.00 6.50  
**PRIMAVERA G.&S.**

**REAL 1**  
Centro Camino Real  
3.30 5.30 7.30 9.30 "GASPARIN" APT. 8.00  
**REAL 2**  
Centro Camino Real  
3.15 5.30 7.45 10.00 "BATMAN ETERNAMENTE" APT. 8.00  
**REPUBLICA**  
Carabaya 1160 Telf. 284803  
4.00 7.00 10.00 "GASPARIN" (APT) 4.00

**RITZ**  
A. Ugarte 1431 Telf. 237580  
3.00 a 11.00 "SOLO PARA ADULTOS" May. 18; 2.50 2.40  
**ROMA 1**  
E. Fernández 242 Telf. 338618  
4.00 7.00 10.00 "LAS AVENTURAS DE PRISCILLA REINA DEL DESIERTO" May. 14; 10.00  
**ROMA 2**  
4.00 7.00 10.00 "A QUIEN AMA GILBERT GRAPE" APT. 10.00  
**ROMA 3**  
4.00 7.00 10.00 "LA ESTRATEGIA DEL CARACOL" May. 14; 10.00

**ROMEO**  
vorta 115 Telf. 475476  
3.40 6.40 9.40 "GASPARIN" (APT): 9.00  
**SALAMANCA**  
Av. Circunvalación  
4.30 7.30 10.00 "DURO DE MATAR LA VENGANZA" May. 14; 3.00  
**SAN FELIPE 1**  
3.00 5.00 6.45 9.00 "GASPARIN" APT. 8.00  
**SAN FELIPE 2**  
3.00 5.00 6.45 9.00 "POCAHONTAS" (Men.) 7.50  
**SAN ISIDRO**  
P. Thouars 2894 Telf. 407331  
4.00 6.00 10.00 "POCAHONTAS" (Men.) 7.50

**TACNA**  
Av. Tacna 552 - Telf. 233646  
3.45 6.45 9.30 "LAS AVENTURAS DE GASPARIN" APT. 6.00 5.00 4.00  
**TAURO**  
Washington 868 T. 329188  
2.30 a 11.00 "SOLO PARA ADULTOS" May. 18; 3.00 2.50  
**VENECIA 1**  
Nicolás de Piérola 207 T. 325594  
11.30 1.00 2.30 4.00 5.30 7.00 8.30 "SOLO PARA ADULTOS" May. 18; 4.00  
**VENECIA 2**  
11.30 1.00 2.30 4.00 5.30 7.00 8.30 "SOLO PARA ADULTOS" May. 18

**VISION**  
2.30 a 11.00 p.m. "SOLO PARA ADULTOS" May. 18  
**CERCADO**  
**OMNIA L**  
Av. Abancay 835 T. 284397  
11.30 a 11.00 p.m. "SOLO PARA ADULTOS" May. 18; 2.50  
**BARRIOS ALTOS**

**BOLIVAR**  
Andahuaylas 1130 T. 274159  
1.30 a 11.00 "SOLO PARA ADULTOS" May. 18; 3.00 2.80  
**SAN MARTIN DE PORRES**

**SAN PALMERAS**  
Urb. La Palmeras  
4.00 7.00 10.00 "BATMAN" May. 14; 3.00

**MADRID**  
Av. Alcazar s/n Rímac  
4.15 7.15 10.15 "LOS CAPRICHOS DEL CORAZON" Men. 14; 2.00  
**BREÑA**

**FANTASIA**  
Venezuela 1132 Telf. 245384  
4.30 a 11.00 p.m. "SOLO PARA ADULTOS" además "STRIP TEASE" May. 18; 5.00  
**PAITY**  
Jorge Chávez 1158 T. 245853  
4.30 a 11.00 p.m. "SOLO PARA ADULTOS" May. 18; 3.00  
**COMAS**

**TUPAC AMARU**  
Av. Túpac Amaru 1902  
4.00 7.00 10.00 "DURO DE MATAR LA VENGANZA" May. 14; 1.50 1.00 0.80  
**LA VICTORIA**

**BEVERLY**  
Manco Cápac 135 Tlf. 317254  
4.15 7.45 "SOLO PARA ADULTOS" May. 18; 3.00  
**SUSY**  
3.30 8.30 7.30 "EL COMANDO DEL BARRIO" May. 14; 2.00  
**MAGDALENA**

**BRASIL**  
4.30 a 11.30 "SOLO PARA ADULTOS" May. 18; 3.00  
**SURQUILLO**

**MAXIMIL 1**  
Inca 859 T. 455803  
3.15 a 11.15 "POCAHONTAS" además "ALADINO" (Men.) 3.00  
**MAXIMIL 2**  
4.00 7.00 10.00 "SOLO PARA ADULTOS" May. 18; 3.00  
**CALLAO**

**PORTEÑO N° 1**  
Séncz Peña 342 T. 656824  
4.00 7.00 10.00 "BATMAN ETERNAMENTE" APT. 4.00  
**PORTEÑO N° 2**  
4.00 7.00 10.00 "GASPARIN" (APT) 4.00  
**VITARTE**  
4.00 7.00 10.00 "SOLO PARA ADULTOS" May. 18; 2.00

**AUDITORIO MIRAFLORES**  
Av. Larco 1150 T. 476376  
8.00 p.m. "Tio Salas en 'ESPIRITU BOLON' con Mariel Acuña.  
**ALIANZA FRANCESA DE LIMA**  
Av. Garcilaso de la Vega 1550  
"LA BELLA Y LA BESTIA" Jue. a Sáb. 8.00 p.m. Dom. 6.00 p.m.  
**A. FRANCESA DE MIRAFLORES**  
Av. Arequipa 495 Telf. 460481  
Auditorio: "COLLACOCHA" 22 Jun. al 03 de Set. de Miér. a Dom. 8.00 p.m.  
Sala de Teatro Joven: "ALINA Y EL INFAME VIEJO CONDE" Del 6 al 30 de Jul. de Jue. a Dom. 7.00 p.m.  
**AUDITORIO INST. CRISTOBAL COLON Jr.** San Miguel 1000 Surquillo - Telf. 4454562  
Sábados: 4.6 p.m. "ALICIA LA NIÑA DEL CUENTO" y "EL MEDICO A PALOS"  
**ICRN DE MIRAFLORES**  
Av. Antofagasta 120 T. 4460381  
Estrano Jueves 3: "LA NOCHE DE LA IGUANA" Direc. Joe Turner C. De Juev. a Dom. 8.00 p.m.  
**INSTITUTO PERUANO RUMO**  
(Av. Salaverry 774 Jesús María)

**BRITANICO**  
Bellavista 527, Miraflores  
**AUD. ASOC. CRIST. FEMENINA**  
Av. Bartolomé Herrera 157 - Lince Telf. 71-7442  
**ARIEQUIN**  
Cuba 1190 J. María Telf. 237791  
8.00 p.m. "EL SHOW DE MIGUEL BARRAZA Y EL GORDO CASARETTO", 4.00 p.m. S. D. y Fer. "HANSEL Y GRETEL", 5.30 p.m. "LOS PITUFOS"

**REAL SAN ISIDRO - Av. A. V. Belaunde** 180 421205-4214688  
De Mar. a Dom. 8.00 Sáb. 8.00 y 10.00 p.m. "FLOR DE CACTUS", Mar. y Jue. 5.00 p.m. Vie. 5.00 Sáb. 4.30 p.m. Dom. 12.15 y 4.30 Teatro para Niños "ALMENDRITA"  
**MOCHA GRANA** - Séncz Peña 107 Barranco 477-0759  
Alonso Algeria escribe y dirige JUAN SIN MIEDO: cinco viejos cuentos de Grimm. Viernes a domingos vermouth 7 p.m. y sábados y domingos también matinee 4 p.m. Entrada General \$/ 15 Estudiantes y Escolares \$/ 10; Viernes Populares \$/ 10 y \$/ 5. Reservas: Llame al 477-0759; son válidos los Pases Libres del Teatro Mocha Grana. Sábado y domingo 5 p.m. dos últimas funciones: "RES-CATEMOS LOS JUGUETES", dirige: Sergio Bazo. "Entrada libre, aporite al salir para ambas funciones"  
**DOMINO** - San Ramón 290 y Bellavista 275 Miraflores  
10 de agosto: "SERENATA" de Yuyachkani. Teatro para Niños: \$áb. 4.00 Dom. 11.00 "LOS DIOSSES, LOS DIABLOS Y RATONES" Del 12/8 al 15/10/95.  
**TEATRO de la Biblioteca de San Isidro**  
Av. República Cdra. 4 El Olivar  
Lunes-Viernes-Sábado y Domingo 7:45 pm. EL AMANTE EMBRUJADO  
7-1249

**CANOUT** (Av. Petit Thouars 4550 - Miraflores) Telf. 451328  
8.00 p.m. Zarzuela "FERNANDO HERNANDEZ" Sáb. Dom. y Fer. 11.30 a.m. "EL PATITO FE0" - 4.00 p.m. "PINOCHO" - 5.30 p.m. "ALADINO"  
**JUAN PARRA DEL RIEGO**  
J. a L. 8.00 p.m. "ESPERANDO LA CARROZA" V. y S. 10.30 p.m. CELICIA BARRAZA. Místrc. 8.00 p.m. Dom. 6.00 p.m. FOLKLORE PERUANO: "Así es mi Perú". Jueves 10.00 p.m. De Lun. a Dom. 4.00 8.00 p.m. "FANTASIA PERUANA en exposición."  
**LARCO** - Av. Larco 1036 Miraflores. Tlf.: 447-8310  
5.00 p.m. "LA CALLE" Direc. July Naters. De Jueves a lunes  
**ESC. TEATRO U. CATORICA PALMA** Av. Larco 770 Miraflores 446-9859 446-6184

**Centro Cultural BARRANCO**  
Instituto Peruano de Arte Av. Grau 802-A Telf. 4441464  
II Festival de Cuentos Infantiles y Comedias Juveniles. De Lun. a Vie. (Madr. Sáb. y Dom.)  
Casa Club-Escuela TALENTOS Jr. Tarapacá 101-A Barranco  
Sáb. Dom. 10.00 am. y 3.00 pm. "LOCADEMIA DE ESTUDIANTES" y "EL GRAN TEATRO DEL MUNDO". Además: "Mujercitas" y "Hombrecitos"  
**SALAZAR BONDY (La Cabaña)**  
Paseo de la Rep. s/n PINOCHO. Sáb. y Dom. 4.00 pm.

**Teatro Universitario San Marcos Jr. Lampa 833 Telf. 427-1186**  
**PROGRAMA DE RIBEYRO EN EL TUSUM** "Explicaciones a un cabo de servicio" "Aires peligrosos". Vier. y Sáb. - 7 p.m. Ent. Gen. \$/ 2.00. Est. \$/ 2.00  
**CENTRO CULT. U. CATORICA Camino Real Cdra. 10, 421627**  
8.00 p.m. De Juev. a Dom. "SANTIAGO EL PAJARERO" \$/ 20.00 10.00

**POLICHINELLA**  
Berlín 235 Miraflores  
"LOS 3 CERDITOS" Sáb. y Dom. 4.00 y 6.30 pm.  
**CASA DE YUYACHKANI**  
Tacna 363 Magdalena T. 401-9587  
8.00 pm. De Juev. a Lun. A partir del 10 de agosto: "SERENATA" de Yuyachkani. Teatro para Niños: \$áb. 4.00 Dom. 11.00 "LOS DIOSSES, LOS DIABLOS Y RATONES" Del 12/8 al 15/10/95.  
**TEATRO de la Biblioteca de San Isidro**  
Av. República Cdra. 4 El Olivar  
Lunes-Viernes-Sábado y Domingo 7:45 pm. EL AMANTE EMBRUJADO  
7-1249

**DOMINO** - San Ramón 290 y Bellavista 275 Miraflores  
10 de agosto: "SERENATA" de Yuyachkani. Teatro para Niños: \$áb. 4.00 Dom. 11.00 "LOS DIOSSES, LOS DIABLOS Y RATONES" Del 12/8 al 15/10/95.  
**TEATRO de la Biblioteca de San Isidro**  
Av. República Cdra. 4 El Olivar  
Lunes-Viernes-Sábado y Domingo 7:45 pm. EL AMANTE EMBRUJADO  
7-1249

**DOMINO** - San Ramón 290 y Bellavista 275 Miraflores  
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**TEATRO de la Biblioteca de San Isidro**  
Av. República Cdra. 4 El Olivar  
Lunes-Viernes-Sábado y Domingo 7:45 pm. EL AMANTE EMBRUJADO  
7-1249

**MONTECARLO**  
Elias Aguirre 479 - Miraflores T. 445-5037  
6.00 pm Sábados y Domingos "POPEYE EL MARINO"  
**CASA CUATRO TABLAS**  
Anibal Maurtua 430 Barranco  
Jueves a domingo 7.30 "SUEÑO DE UNA NOCHE DE VERANO"  
Centro Cultural "RICARDO PALMA" Av. Larco 770 Miraflores 446-9859 446-6184

**Centro Cultural BARRANCO**  
Instituto Peruano de Arte Av. Grau 802-A Telf. 4441464  
II Festival de Cuentos Infantiles y Comedias Juveniles. De Lun. a Vie. (Madr. Sáb. y Dom.)  
Casa Club-Escuela TALENTOS Jr. Tarapacá 101-A Barranco  
Sáb. Dom. 10.00 am. y 3.00 pm. "LOCADEMIA DE ESTUDIANTES" y "EL GRAN TEATRO DEL MUNDO". Además: "Mujercitas" y "Hombrecitos"  
**SALAZAR BONDY (La Cabaña)**  
Paseo de la Rep. s/n PINOCHO. Sáb. y Dom. 4.00 pm.

**Teatro Universitario San Marcos Jr. Lampa 833 Telf. 427-1186**  
**PROGRAMA DE RIBEYRO EN EL TUSUM** "Explicaciones a un cabo de servicio" "Aires peligrosos". Vier. y Sáb. - 7 p.m. Ent. Gen. \$/ 2.00. Est. \$/ 2.00  
**CENTRO CULT. U. CATORICA Camino Real Cdra. 10, 421627**  
8.00 p.m. De Juev. a Dom. "SANTIAGO EL PAJARERO" \$/ 20.00 10.00

**POLICHINELLA**  
Berlín 235 Miraflores  
"LOS 3 CERDITOS" Sáb. y Dom. 4.00 y 6.30 pm.  
**CASA DE YUYACHKANI**  
Tacna 363 Magdalena T. 401-9587  
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Av. República Cdra. 4 El Olivar  
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**DOMINO** - San Ramón 290 y Bellavista 275 Miraflores  
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**TEATRO de la Biblioteca de San Isidro**  
Av. República Cdra. 4 El Olivar  
Lunes-Viernes-Sábado y Domingo 7:45 pm. EL AMANTE EMBRUJADO  
7-1249

## ANEXO 2

**International Intellectual Property Alliance**

**2006 Special 301 Report. PERU.**



# INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

## 2006 SPECIAL 301 REPORT

### PERU

#### EXECUTIVE SUMMARY

**Special 301 Recommendation:** IIPA recommends that Peru remain on the Special 301 Watch List in 2006. IIPA has long advocated that effective enforcement—on both the administrative and the criminal levels—remains the copyright industries' primary concern in Peru. In general, more police actions are needed, prosecutors must actively pursue piracy cases, and judges must impose deterrent sentences. Peru also needs to improve its border controls to halt the importation of pirate materials.

IIPA supports the Free Trade Agreement process and looks forward to the prompt and effective implementation of Peru's upcoming obligations under the U.S.-Peru FTA. The U.S. began FTA negotiations with Peru in May 2004, and negotiations concluded in December 2005. On January 6, 2006, President Bush notified the U.S. Congress of his intent to enter into this FTA.<sup>1</sup> The FTA offers a vital tool for encouraging compliance with other evolving international trends in copyright standards (such as fully implementing WIPO Treaties obligations and extending copyright terms of protection beyond the minimum levels guaranteed by TRIPS) as well as outlining specific enforcement provisions.<sup>2</sup> Peru currently is a beneficiary country of several U.S. trade programs—the Generalized System of Preferences (GSP) and the Andean Trade Preference Act (ATPA), as amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA)<sup>3</sup>; both programs have high standards of intellectual property rights.

#### **Actions Which the Peruvian Government Should Take in 2006:**

- Conduct regular and concerted anti-piracy actions at the black markets in Lima (specifically, Mesa Redonda, Avenida Wilson, Galerías Garcilaso de la Vega, el Hueco, Polvos Azules and Polvos Rosados) as well as on the streets of high-traffic areas, with particular attention given to Miraflores, San Isidro, and other middle class neighborhoods as well as other targetted cities in the rest of the country;

<sup>1</sup> The President's letter gives Congress at least 90 days' notice before Bush signs the agreement. See Notice of Intention to Enter into a Free Trade Agreement with Peru, 71 Fed. Reg. 1679 (Jan. 10, 2006), at <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/06-261.htm>.

<sup>2</sup> The preliminary text of the U.S.-Peru FTA IPR Chapter is posted on USTR's website at [http://www.ustr.gov/assets/Trade\\_Agreements/Bilateral/Peru\\_TPA/Final\\_Texts/asset\\_upload\\_file509\\_8706.pdf](http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Peru_TPA/Final_Texts/asset_upload_file509_8706.pdf).

<sup>3</sup> See IIPA Comments to the U.S. International Trade Commission regarding the Andean Trade Preferences Act: Effect on the U.S. Economy and on Andean Drug Crop, June 8, 2005 at <http://www.iipa.com/pdf/IIPA%20Andean%20USITC%20ATPA%20Investigation%20Final%2006082005.pdf>. During the first 11 months of 2005, \$159.6 million worth of Peruvian goods (or 3.5% of Peru's total exports to the U.S. from January to November) entered the U.S. under the duty-free GSP code, representing an increase of 66.4% over the same period in 2004. Also during this same 2005 time frame, an additional \$2 billion worth of Peruvian goods entered the U.S. under ATPA, representing a 44.3% increase in ATPA benefits from the same period in 2004.

- Coordinate efforts between Copyright Office and local municipalities to revoke licenses granted to vendors selling pirate product;
- Perform in-depth investigations directed at closing down illegal replication facilities and warehouses of hard-good piracy;
- Improve border enforcement to seize suspicious copyrighted products as well as raw materials (e.g., blank optical media) used in making those products;
- Increase the involvement of the tax authorities (SUNAT) in all anti-piracy actions, including retailer actions;
- Support more administrative enforcement efforts by INDECOPI against piracy of business software, motion pictures (DVD and cable), books, entertainment software, and music;
- Pursue prosecutions and impose expeditious and deterrent sentences in piracy cases (almost all criminal sentences are suspended);
- Create a specialized IPR court which handles both civil and criminal copyright infringement cases;
- Dedicate significantly more resources to criminal IPR enforcement (e.g., budget reallocation, adding at least one additional special prosecutor, supporting the special IPR unit of the Fiscal Police (*División de Investigación de Delitos contra los Derechos Intelectuales*), and making the appropriate arrangements with the responsible judicial bodies to create a judicial court specializing in IPR issues).
- Work with the U.S. government and copyright industries to properly implement the FTA IPR obligations and WIPO Treaties to include notice and takedown provisions, ISP liability, statutory damages, comprehensive making available right, and provisions against the removal or alteration of electronic rights management information (ERMI).

**PERU**  
**Estimated Trade Losses Due to Copyright Piracy**  
**(in millions of U.S. dollars)**  
**and Levels of Piracy: 2001-2005**<sup>4</sup>

INDUSTRY	2005		2004		2003		2002		2001	
	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level
Records & Music <sup>5</sup>	66.0	98%	68.0	98%	87.0	98%	70.2	98%	57.8	97%
Business Software <sup>6</sup>	23.6	73%	22.0	73%	19.0	68%	14.7	60%	11.2	60%
Motion Pictures <sup>7</sup>	NA	NA	4.0	75%	4.0	45%	4.0	50%	4.0	50%
Entertainment Software <sup>8</sup>	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Books	9.0	NA	8.5	NA	8.5	NA	8.5	NA	9.0	NA
<b>TOTALS</b>	<b>98.6+</b>		<b>102.5</b>		<b>118.5</b>		<b>97.4</b>		<b>82.0</b>	

<sup>4</sup> The methodology used by IIPA member associations to calculate these estimated piracy levels and losses is described in IIPA's 2006 Special 301 submission at [www.iipa.com/pdf/2006/spec301methodology.pdf](http://www.iipa.com/pdf/2006/spec301methodology.pdf). For more information on the history of Peru under Special 301 review, see Appendix D (<http://www.iipa.com/pdf/2006SPE301USTRHISTORY.pdf>) and Appendix E (<http://www.iipa.com/pdf/2006SPE301HISTORICALSUMMARY.pdf>) of this submission.

<sup>5</sup> The lower recording industry loss estimate in 2004 was due to the fact that the average sale price per legitimate CD was lower; the number of pirate units remained unchanged between 2003 and 2004.

<sup>6</sup> BSA's 2005 statistics are preliminary. They represent the U.S. publishers' share of software piracy losses in Peru, and follow the methodology compiled in the Second Annual BSA/IDC Global Software Piracy Study (May 2005), available at <http://www.bsa.org/globalstudy/>. These figures cover, in addition to business applications software, computer applications such as operating systems, consumer applications such as PC gaming, personal finance, and reference software. BSA's 2004 piracy statistics were preliminary at the time of IIPA's February 11, 2005 Special 301 filing; the 2004 data has been revised and is reflected above.

<sup>7</sup> MPAA's trade losses and piracy levels for 2005 are available for a limited number of countries and are based on a methodology that analyzes physical or "hard" goods and Internet piracy. For a description of the new methodology, please see Appendix B of this report. As loss numbers and piracy levels become available for additional countries at a later time, they will be posted on the IIPA website, <http://www.iipa.com>.

<sup>8</sup> ESA's reported dollar figures reflect the value of pirate product present in the marketplace as distinguished from definitive industry "losses." The methodology used by the ESA is further described in Appendix B of this report.

## COPYRIGHT PIRACY IN PERU

**Overview:** Copyright piracy and inadequate enforcement are the major challenges adversely affecting the copyright industries in Peru. Over the last few years, the legitimate recording industry in Peru has nearly disappeared because of the high levels of piracy. Optical disc piracy is on the rise, and adversely affects almost all the copyright industries. Street markets and fairs selling pirate books, along with illegal photocopying on university campuses, continue to plague the book publishing industry.

**Record and music piracy:** Piracy of music and sound recordings in Peru is still a serious impediment to the legitimate market. In 2005, the estimated piracy level for music and recordings continued to be an astronomical 98%, one of the highest music piracy rates in the world, resulting in the near total collapse of the legitimate recording industry in that country. In fact, Sony Music and Warner Music essentially closed operations in Peru in 2004. In addition, recording activity for local artists is disappearing. Pirate audio product in Peru appears in all formats—cassettes, CDs and now mostly CD-Rs (recordable CDs). Thousands of pirated audiocassettes and illegal music CDs are sold in the neighborhood of Mesa Redonda, located one block away from the police and Public Ministry's headquarters. Customs figures have indicated that there were more than ten blank CD-Rs legally imported into the country for every single CD sold. Thousands of blank tapes and CD-Rs are smuggled into the country through Tacna in Chile (Iquique-Arica) each week and then distributed for illegal duplication around the country. COPERF, the Peruvian Recording Industry Association, continues to run an anti-piracy campaign which results in some police raids and the seizures of pirate product. Unfortunately, during 2005, seizures decreased dramatically by almost 61% -- from 5.4 million pre-recorded CD-Rs to 1.5 million. In any case, these isolated actions are not sufficient to serve as real deterrents against piracy, or to restore the market.

**Business software piracy:** The business software industry continues to report that in 2005 its key challenge was the illegal duplication of business software within larger Peruvian private sector companies as well as small and medium-sized organizations. Recent market investigations concluded a significant increase of end-user piracy among these businesses. Reseller piracy remains a very significant problem, too; illegal bazaars operate openly in high-traffic areas in the center of Lima (Galerías Garcilaso de la Vega) with virtual impunity. For example, the day after a raid, the same individuals continue selling illegal software from the same stalls and stores. Preliminary estimated trade losses due to business software piracy in Peru were \$23.6 million in 2005, with a 73% piracy level. If Peru were able to lower business piracy by 10 percentage points, BSA predicts there would be significant growth in the local economy.<sup>9</sup>

**Book piracy:** Little changed in 2005 with respect to book piracy. Large-scale photocopying (the most damaging form of piracy) remains at high levels. Furthermore, trade books of U.S. origin now appear in pirated translations. Book fairs (*campos feriales*), including two large ones in Lima, often permit the sale of pirated books; some estimates place 90% of the books as being piratical. Some of the street sellers are located a block away from the SUNAT; others are located near university campuses. Such widespread piracy over the last decade has devastated the local book

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<sup>9</sup> BSA and International Data Corporation (IDC) released a new study on December 8, 2005, which illustrates global economic gains from reducing software piracy. This report, Expanding the Frontiers of Our Digital Future: Reducing Software Piracy to Accelerate Global IT Benefits, using 2004 data, found the following: decreasing Peru's piracy rate from 73% to 63% would add \$286 million to its economy, directly create nearly 1,000 more new jobs, and increase local industry revenues by \$214 million. The aggregate effect could mean an additional \$24 million in tax revenues for Peru's government. See <http://www.bsa.org/idcstudy/pdfs/Peru.pdf>.

industry, causing book stores to close and interfering with the ability for legitimate publishers to continue doing business; such embedded piracy also sends the wrong signal about the importance of cultural development. Some professional pirates have the ability to offer approximately 3,000 titles for sale. This commercial devastation contradicts the government's declaration about the importance of publishing; the Law of the Book (Law 28086 of 2003) recognizes the important public need to create and protect books and editorial products. Peruvian authorities, including INDECOPI and the police, must do much more to protect books, especially from piracy (including unauthorized photocopying as well as reprint piracy). Estimated trade losses due to book piracy in Peru rose to \$9 million in 2005.

**Audiovisual piracy:** The audiovisual industry reports that optical discs piracy continue to grow tremendously over the last year. Pirate optical discs are available even prior to theatrical release in Peru and are distributed in street markets, home delivery, newspaper stands and black market distribution centers. The main concerns are the large black markets such as Polvos Azules Polvos Rosados y Hueco, which are especially difficult to address because of their political protection and their tendency to resort to violence in raids. The piracy situation in street markets and in local galleries is so pervasive that thousands of pirate discs are being sold. Local video distributors report that 90% of the DVDs offered in video rental stores are illegal.

**Entertainment software piracy:** The Entertainment Software Association (ESA) reports that pirated entertainment software products (videogame CDs and cartridges, and personal computer CDs) remain widely available in Peru.

## COPYRIGHT ENFORCEMENT IN PERU

**Overview:** In July 2004, the High Level Multi-Sectorial Commission against Contraband and Piracy, headed by the Production Ministry, included piracy and IP infringement fight as one of its missions. This commission, a governmental entity which also has private sector participants, focuses primarily on recommending regulations to fight contraband and counterfeit goods. In addition, the *Cruzada Antipirateria* is a private association created by the audiovisual sector, including distributors, exhibitors, video rental stores, etc. (neither the recording industry nor the business software industry participates). The *Cruzada* is one of the members of the Multi-Sectorial Commission. The Copyright Office (Oficina de Derecho de Autor) has begun to have a secondary role in this campaign.

**Police actions:** The copyright industries continue to report in 2005 that the Peruvian police still protect the pirates of Mesa Redonda (an area similar in its level of lawlessness to the Mexican district of Tepito and the Paraguayan city of Ciudad del Este). Unfortunately, the special police unit trained in IPR enforcement matters is ineffective in handling street piracy. The copyright industries agree that there is a strong need to allocate public resources to support the special IPR unit of the Fiscal Police (*Division de Investigacion de Delitos contra los Derechos Intelectuales*) in order to conduct effective anti-piracy investigations.

MPA has an active campaign in Peru and participates in the *Cruzada Antipirateria* which works closely with INDECOPI. In 2005, the Federal Police performed 72 raids resulting in the seizure of blank digital media worth an estimated US\$5 million which entered the Peru as contraband from Asia. SUNAT also performed raids and seized blank media from Asia.



During 2005, the local recording industry's anti-piracy unit cooperated in seizing 2.0 million pre-recorded music CD-Rs, 500 thousand blank CD-Rs, and produced 10 sentences, all with no deterrent jail time. Some of these actions have taken place with the support of INDECOPI. This level of enforcement activity does little to contain the sale of close to 20 million units of pirate CDs sold in Peru. The raids executed in the major pirate centers of Mesa Redonda, Polvos Azules and Polvos Rosados have little impact on the level of piracy because the actions are not consistent, the product is quickly replaced and the pirate distributors have no legal exposure. The recording industry does not bring administrative enforcement cases in Peru.

**Criminal prosecutions still rare:** Prosecutors have been unable to move copyright cases along and judges have issued only a small number of non-deterrent sentences. Peru has two IPR prosecutors who work with INDECOPI when requested to do so.

**INDECOPI works well with some of the copyright industries:** Two industry sectors, business software and audiovisual, use the administrative remedies offered by INDECOPI. Industries also report that prosecutors and customs officials have been unwilling to work with INDECOPI.

BSA reports that in 2005, INDECOPI gave constant support to special business software campaigns to fight piracy. INDECOPI drafted the government guide for software management and got it approved in 2004. The business software industry has relied significantly on administrative actions by INDECOPI against end users, since civil and criminal actions can last for years without having any deterrent impact on the market for pirate copyrighted products. Notwithstanding its positive results, INDECOPI still has no authority to force an inspection when the defendant denies access to INDECOPI. As an administrative entity, INDECOPI needs express authorization from a court to enter in the face of such a denial. This lack of authority has encouraged some defendants to deny access to INDECOPI, with the expectation that the amount of the fine to be imposed by INDECOPI for such denial would be smaller than the compensation and fines faced had the inspection occurred. INDECOPI should seek for a solution using its current faculties, for example imposing deterrent sanctions to avoid this conduct in the future and seizing all means used to infringe software companies rights. INDECOPI has been effective in imposing fines on end-users that first reach a settlement with BSA but later chose not to comply with the settlement terms.

MPA continues to report positive anti-piracy developments in cooperation with INDECOPI. In 2005, for example, MPA reports that INDECOPI organized 37 raids against large black markets, including Polvos Azules, Polvos Rosados, El Hueco and Mesa Redonda, resulting in the seizure of over 160,000 counterfeit goods worth an estimated US\$ 400,000. In 2005, as in 2004, the former Attorney General did not cooperate with INDECOPI. However, a new Attorney General was appointed and MPA expects that her office will expend more effort in investigations and prosecutions related to piracy.

The book publishing industry believes it is critical that, in addition to criminal efforts, the administrative agencies of INDECOPI and the Copyright Office initiate investigations and punish those individuals and businesses involved in book piracy. INDECOPI also should work jointly with local and regional governments, as well as with the National Library and the Ministry of Education.

In 2005, an entertainment software company obtained favorable results from an action with INDECOPI. A case involving a 2004 Customs seizure of 1,800 infringing materials resulted in the defendant paying damages to the company in the amount of US\$4,000. The defendant was also ordered to refrain from further infringing activity.

**Non-deterrent results in the criminal courts; hopes for a specialized IPR court dashed in 2005:** Few criminal cases reach the Peruvian judiciary. When they do, judges do not impose deterrent sentences; cases have simply resulted in suspended sentences. No copyright pirate has received deterrent sentences for criminal copyright infringements in Peru, despite the fact that the copyright law contains adequate penalties. What happens in practice is that the Peruvian Criminal Procedures Code permits sentences of four years or less to be suspended. As a result, the courts usually suspend the defendant's sentence in copyright cases. This sad practice continues even after the 2004 amendments to the criminal code, which provided an increase of minimum sentencing to four or more years for copyright infringements. During 2005, the High Level Multi-Sectorial Commission against Contraband and Piracy filed a petition before the Peruvian judiciary to request that a special criminal intellectual property court for the first instance (trial court) be created; unfortunately, that request was rejected.

**Customs:** Border measures in Peru are inadequate to stop the flow of pirated material into the country. Interventions by customs authorities to seize suspect shipments are few. Some industries estimate that over 100 million units of blank optical media are coming into the country. There are several actions which Peru could take to strengthen its borders from the entry of pirated products. First, Peruvian customs, by an internal directive or some regulatory means, should impose strict controls to check the legitimacy of IP goods entering and leaving Peru (e.g., music CDs, videos, business software, videogame software on all platforms, including CD-ROMs, personal computer CD-ROMs and multimedia entertainment products). Customs can consult with industry associations and local representatives about suspect shipments. Many of the copyright industries have participated in training aimed at Peruvian customs officials. Second, customs should also pay special attention to the value of the goods that are used as raw materials for the production of copyrighted products, such as recordable CDs, blank tapes, blank videos, etc., that enter Peru with what appear to be under-declared values. By a November 2005 resolution, the Customs Authority included blank media in a special regime (withholding of VAT) by which every importer of a listed merchandise shall pay in advance the VAT of the reseller of such merchandise, in addition to its own VAT.

**SUNAT (National Tax Authority):** SUNAT (Superintendency of National Tax Authority, which has jurisdiction over tax and customs issues) can and should be a major player in anti-piracy efforts, in prosecuting tax evasion and contraband activity by pirates. There have been several efforts to get SUNAT involved in the fight against piracy, but SUNAT has resisted participation.

**INDECOPI and SUNAT cooperation:** INDECOPI and SUNAT signed an agreement of mutual cooperation and support on August 18, 2004. Both agencies agreed to coordinate actions to enable customs authorities to identify infringing products more efficiently and to prepare joint anti-piracy media campaigns. MPA reports that that customs does report to INDECOPI all import operations related to optical discs and other goods that could be used in piracy. INDECOPI has an inspector working with Customs, who is in charge of checking the importation of blank media. That inspector reports to INDECOPI's director any irregular operations, and as necessary, INDECOPI takes administrative action or denounces the irregular activity to the IPR prosecutors.

**Trainings:** As reported above, many of the copyright industries have participated in training aimed at Peruvian customs officials.

## COPYRIGHT LAW AND RELATED ISSUES IN PERU

**1996 Copyright Law:** Peru's copyright law (Legislative Decree No. 822) entered into force on May 24, 1996. This comprehensive legislation raised the level of protection toward the standards of both TRIPS and the Andean Community Decision 351 (1993). The Peruvian law contains a broad scope of economic rights, as well as some of the highest levels of criminal penalties in Latin America. Peru already has deposited its instruments of accession to both the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). Given the higher standards of copyright obligations and enforcement measures contemplated in the FTA, Peru will have to make additional reforms to its copyright law in order to fully comply with these treaties. Additional reforms to the copyright law should also include statutory damages, ISP liability, and notice and takedown provisions, and provisions against the removal or alteration of Electronic Rights Management Information (ERMI).

**Government software asset management deadline delayed to December 2006:** On February 13, 2003, the Peruvian government published the Government Software Legalization Decree, Decreto Supremo No. 013-2003-PCM. The decree states that all public entities should use legal software and, to that end, these entities must establish effective controls to ensure legal use of software. The decree specifies that government agencies must budget sufficient funds for the procurement of legal software, and set a set a deadline of March 31, 2005 for government agencies to provide an inventory of their software and to erase all illegal software. The decree also delineates clear lines of responsibility and mechanisms for ensuring compliance with its provisions: The chief technology officer or other designated official must certify compliance. The decree also provides for education campaigns aimed at public employees to inform them about licensing provisions and the content of the Legalization Decree, and further requires INDECOPI to publish a guide to ensure efficient software administration in the public sector. INDECOPI has published the government guide for software management in 2004. Nevertheless, the Government issued Supreme Decree 037-2005-PCM in May 2005, postponing the enforceability of the obligations of the agencies to provide an inventory of their software and to erase all illegal software until December 2006. BSA urges the Government to implement the software guide and the decree as swiftly as possible.

**Criminal code amendments and customs provisions in 2004:** First, Peru's criminal code was amended by Law No. 28,289 which took effect in July 2004. Sanctions were increased to a minimum of four years of prison and a maximum of eight years of prison for those who commit copyright infringement (e.g., unauthorized reproduction or distribution of a copyrighted work) when the value of the work(s) infringed exceeds a commercial value of U.S. \$1,800. The law seeks to provide deterrent sanctions in copyright cases and to restrict the power of judges to suspend criminal sentences. Second, the criminal code also contains several provisions to address customs crimes and piracy. It created a permanent commission to fight customs crimes and piracy, designating SUNAT as the secretary of this commission. Some of the commission's goals are: the creation of a national plan to fight customs crimes and piracy; the coordination of actions and recommendations to fight customs crimes and piracy; and the recommendation of new provisions to improve the law and sanction these crimes. In addition, Law No. 28,289 orders Customs officials to give INDECOPI all necessary support to help it fulfill its mission. The law also created an Importation Registry where persons or companies importing, producing, or distributing duplicating equipment or blank optical media discs must register. The registry is administered by SUNAT, and there is some question whether the registry has been activated.

**Law of the Book 2003:** The Law of Democratization of the Book and the Development of Reading (Law No. 28086) was enacted in October 2003, with the goals of protecting the creation and distribution of books and similar editorial products. The law also has goals of improving access to books, promoting the national library system, and promoting the conditions necessary for the legal production of the books, among others. The law creates a new entity known as PROMOLIBRO (*el Consejo Nacional de Democratización del Libro y de Fomento de la Lectura*), within the Ministry of Education.



## ANEXO 3

### **Entertainment Pirates: Understanding Piracy Determinants in the Movie, Music and Software Industries.**



## Entertainment Pirates: Understanding Piracy Determinants in the Movie, Music and Software Industries

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### **Abstract**

Our research aims at understanding piracy determinants, as well as debating policy issues to fight this phenomenon.

In particular, we search for determinants with a threefold model, supported by theoretical and empirical literature: legal aspects, socio-economic factors and cultural traits.

We show the joint impact of the three facets considered (legal aspects, socio-economic factors and cultural traits) through an in-depth quantitative analysis.

Our results highlight a multi-causality approach to the phenomenon: the three facets show a relevant impact on piracy levels.

Consistent with existing literature, intellectual property rights (IPR) receive a higher level of protection in richer and more advanced nations. Protection of IPR leads to a lower piracy impact on sales. Moreover, the piracy phenomenon is strictly connected to the peculiar cultural traits shown by every country. Societies characterized by flat hierarchies and collectivistic behaviours show higher piracy levels. Illegal copies are less numerous in case of high education levels, strong institutions and severe law enforcement procedures.

### **Keywords**

Piracy, Entertainment, Cultural Industries.

## 1. Introduction

The “core copyright industries,” business organizations whose primary output is material protected by copyright (software, music, movies, publications, etc.) represent one of the pillars of post-industrial economies. In 2001 in the US alone these industries generated 535 billion dollars, 5.2% of the GDP, with an annual growth rate of 5.8%, far above the average for the economy (3%) (IIPA 2002). Moreover, prospects are for these businesses to play a key role in the future economy, as the intangibility of the aesthetic value of the leisure industry intensifies.

Development in these sectors is becoming more and more entangled in the problem of piracy. We define piracy as, “The unauthorized copying of copyright materials for commercial purposes and the unauthorized commercial dealing in copied materials” (WIPO 2002, World Intellectual Property Organization). Various types of violations of copyright law are encompassed in this definition, from “domestic” piracy by individuals on a “micro” scale, to counterfeiting operations run of criminal organizations, to more recent phenomena such as peer to peer piracy. All involve illegal actions with the common denominator of being detrimental to the interests (economic and non) of copyright holders.

From an economic standpoint, piracy is considered one of the critical threats for the entertainment industry. Estimates for 2002 indicate 4.6 billion dollar losses for the music industry (IFPI 2003) and over 3 billion dollars for the U.S. movies sector (MPA 2003).

There is a great deal of variation in different parts of the world. In terms of software, the weight of the illegal market fluctuates from minimum levels in North America (24%) to peaks in the Pacific zone (55%) and Latin America, running from 49% in the Middle East and Africa to 35% in Western Europe. Within these macro-areas, too, situations in individual countries are quite varied. In Eastern Europe, the piracy rate varies from 45% in Hungary to 90% in Russia; in Latin America from 45% in Puerto Rico to 77% in Nicaragua; in Western Europe from 25% in England to 50% in Spain (BSA 2003). The situation is very similar in the music and movie sectors (Data are fully reported in the section devoted to sample description).

Faced with a phenomenon of such vast proportions, and the varying degree of significance it takes on, experts and researches have attempted to investigate the determinants or causes of piracy. In most studies, the problem is addressed from the viewpoint of a criminal act, on par with many other illegal actions. Causes and responsibility are attributed directly to psychological processes and personality traits of the individual (Husted, 2000). Generally excluded are environmental factors, such as the judicial system, culture, and socio-economic aspects. We believe, instead, that these factors may be better suited to explain the phenomenon from the standpoint of cross-country comparison.

This work focuses on these aspects, starting off from the hypothesis that the problem, complex and multi-faceted as it is, can be explained only by resorting to several fields of analysis taken together. Specifically, three have been identified: legal (referring both to the legislative framework and enforcement of these laws), cultural and socio-economic. The sectors of the creative industry taken into consideration are software, music, and movies. The objective is to understand what factors can explain the differing intensity of the problem in single national contexts, with a “macro” cross-country approach.

## 2. The Literature on Piracy

Economists agree that innovation plays a key role in promoting the economic and cultural growth of a nation. Moreover, the potential for innovation can not be disassociated from the protection of intellectual work (Gould and Gruben, 1996). Nonetheless, only recently this issue has been taken into serious consideration, prompted by the proliferation of episodes involving violation of intellectual property rights. The existing literature on illegal behaviors can be divided into two streams of analysis: on one hand studies which underscore the ethical side of the problem, and on the other those which take into account intercultural and macroeconomic aspects.

Regarding the former, two theories can be considered forerunners in the stream of studies on ethical behaviors: the Theory of Reasoned Action (TRA), formulated in 1975 by Fishbein and Ajzen, and the Differential Association Theory developed by Sutherland and Cressey (1970). Both analyze the relationship between psychological structures, individual values, and behavior. The TRA is based on the assumption that in the relationship between social forces and individual action, a series of psychological responses come into play. This is the takeoff point for the hypothesis that the act of counterfeiting is preceded in a conceptual sense by an intent to copy something illegally. Precisely on this intention it is crucial to intervene. Sutherland and Cressey, instead, place the role of peer pressure center stage in determining ethical or unethical behavior. The action of individuals is strongly influenced by the perceptions and opinions of the group to which they belong. (For example, teenagers illegally utilize file-sharing applications more often to prove themselves deviant “techie” in the eyes of their group than for any real or specific need.)

The second stream of research, fitting more closely into the framework of this study, dedicates more attention to the “macro” dimension of the phenomenon. The level of investigation shifts from individual behavior to the country system. This being the case, the analysis focuses on the relationship between characteristics of the national community and the dissemination of behaviors running counter to the laws protecting intellectual property. The focus of analysis alternates, in turn, within single areas of action of the community: legal, cultural, and socio-economic.

### 2.1. Legal Interpretation

With reference to legal variables, experts and researchers measure the level of protection accorded to intellectual property by each nation. Park and Ginarte (1997) have constructed a quantitative index to measure the force of *Intellectual Property Rights* (IPRs) in 60 countries. The index focuses on the protection of patents, and examines five fundamental aspects: *coverage, membership in international patent agreements, provisions for loss of protection, enforcement mechanisms, duration*. The two authors come to the conclusion that strong protection of intellectual property embodies the potential for solid economic growth.

More specifically, a wide array of IPRs contributes to promoting investment activities, among this research and development which spurs long-term economic growth. The index shows a positive correlation with average income per capita of the citizens of a country, their level of education, the percentage of GDP invested in R&D, and the freedom of economic initiative. These results are confirmed in a study by Marron and Steel (2000), who compare Park and Ginarte’s index with average software piracy statistics from 1994 to 1997. In doing so, empirical evidence emerged proving the link between the protection of intellectual property, R&D



investments, and counterfeiting levels. In particular, the greater the number of protection operations, the more research investments, and the lower the level of counterfeiting.

Along with the analysis of legal aspects, actual implementation of regulations must necessarily be considered. Ronkainem and Guerriero-Cusumano (2001) start from the hypothesis that the incidence of IPR violations decreases as law enforcement increases. The two authors provide empirical support for this idea by utilizing the *Corruption Perceptions Index* as a concise measuring instrument. This index is compiled every year by *Transparency International* to assess the extent to which laws are obeyed in any given country.

A more in-depth investigation is carried out by Harbaugh and Khemka (2001), who study the link between copyright enforcement, piracy, social welfare and pricing policies. They come to the conclusion that where there are broad-based copyright enforcement strategies,<sup>1</sup> product prices tend to be in line with monopoly levels, with a reduction in piracy rates. On the contrary, where enforcement is concentrated on specific segments of pirates, there is both an increase in price and in the rate of illegal copying. Broadening the base of enforcement targets to “light value buyers”, prices tend once again to reach monopoly levels, but at the same time there is a drop in piracy along with potential growth both in profits for producers and in surplus for consumers.

## 2.2. Cultural Interpretation

A second factor in the equation at the basis of the piracy problem is cultural. In many studies, attention has been focused on the connection between behavioural practices and social norms which distinguish groups. The basic theory is that traits of a culture make it possible to predict practices of the organizations themselves and behaviors most commonly adopted (Bodega 2002).

The foundation for this interpretation lies the pioneering work of the anthropologist Hofstede. This scholar's aim was to understand how personal values and individual ambitions take shape within diverse cultural contexts. Based on answers from a series of questionnaires, Hofstede (1991) postulates the existence of five variables which can explain the structure adopted by a society in economic and social fields: power distance, individualism, masculinity, uncertainty avoidance and Confucian dynamism. Results indicate that nations which are highly developed from an economic standpoint have a very keen focus on individualistic opportunism, while developing and undeveloped countries leverage more heavily on collective values. In addition, less advanced cultures accept higher levels of power distance, showing tolerance for pronounced hierarchical differentiation.

Taking up on Hofstede's work, Husted (2000) investigates the relationship between software piracy and national culture, seeking to understand how violating intellectual property rights correlates to values shared within the society. Results provide full support for the existence of a strong link between software piracy and the individualism/collectivism aspect. Collectivistic countries place great emphasis on social harmony and the well being of the group, insisting that knowledge be shared. On the contrary, communities dedicated to individualism show a preference for the individual aspect. As regards other explanatory cultural aspects, Husted (2000) underscores the lack of correlation between piracy, power distance, uncertainty avoidance, and masculinity, opening the way for the notion that the relationship between culture and ethical practices is very complex, and is influenced by the external environment, as Wines and Napier assert (1992).

### 2.3. Socio-economic Interpretation

The third field of study regards socio-economic factors and concentrates on the socio-demographic characteristics of the population on one hand, and the structure of entertainment markets on the other. In Rapp and Rozek's work (1990) the fact that emerges most prominently is that IPRs enjoy much better protection in countries with a high per capita income. Developed nations favor severe measures against illegal copying, which translate into piracy rates which are generally lower than underdeveloped areas.

As far as the socio-demographic aspect, Marron and Steel (2000) reveal that high educational levels guarantee growth in demand for IPRs. Some studies also highlight differences between men and women in their view of illegal copying. From research conducted in the US by Sims, Cheng and Teegen (1996) the profile emerged of "info-tech pirates" who are characterized by their masculinity, and that men are more commonly involved in illegal duplication of support systems.

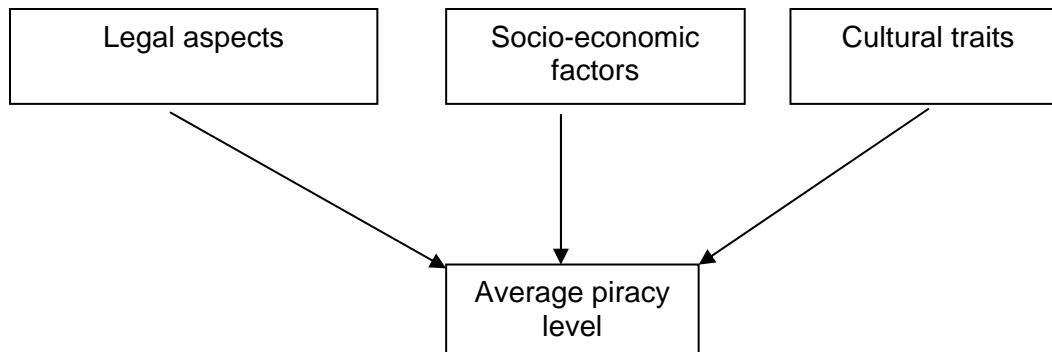
As regards the structure of entertainment markets, numerous factors are relevant: diversification of products/services on offer, transparency of markets, pricing policies, etc. Many studies emphasize this last factor, which is considered central to the process of buying counterfeit products. Slive and Bernhardt (1998) maintain that piracy represents, within certain limits, a form of diversification of products/services offered on the market on the basis of price. A certain segment of consumers, who are not willing spend money to buy an original, take advantage of no-cost products. (This is the story most often heard when talking to young people who use peer-to-peer applications; they claim they're defending their buying power from CDs they consider too expensive.) According to the two authors, this situation has its foundations above all in the field of software, where significant network externalities co-exist along side user groups with varying willingness to pay.

For companies that produce software programs, it proves difficult to implement effective price differentiation strategies in order to optimise profits on each segment. This observation is the basis for the hypothesis that piracy is utilized as a price lever, to diversify the business approach toward various pools of buyers. Only recently have pay-to-download options emerged, easy to access for wide user segments, which allow for legal forms of peer-to-peer. It may be, however, that these methods are not yet sufficiently publicized, and that how to use them it not yet clear, at least for older and wealthier consumers, as well as those who are less familiar with Internet and the use of technological devices.

### 3. Variables in the Model of Analysis

Our study takes into consideration a wide set of variable which, as mentioned previously, are grouped together in three macro-categories: legal, cultural, and socio-economic (Fig. 1). Single variables utilized in regression analyses and methods used to construct them will be discussed in the following sections.

**Figure 1:  
Categories of Analysis**



### 3.1. Legal Variables

#### *Index of Membership in International Agreements*

Protecting intellectual property presents itself as an international problem for two reasons. First of all, entertainment markets can be defined as global markets. Secondly, the piracy phenomenon, in particular in organized form, systematically crosses national borders, supported by the growing potential for interconnectivity offered by new technologies. Therefore, what seems clear is the inadequacy of regulatory frameworks which center exclusively on national contexts, and the consequent need for agreements and collaboration between several nations simultaneously. Based on this need, conventions have been drawn up with the aim of defining guidelines for action which are widely shared.

To measure the degree of protection provided for IPRs, an index has been created that takes into account the number of agreements that each nation undersigns, and the year of ratification. Nineteen of the twenty-three accords administered by the World Intellectual Property Organization (WIPO) were analyzed. To compile the index, each convention was assigned two points: a point for membership and a weighted point based on when the agreement was ratified. The index as such proves particularly useful because it represents a concise parameter that can rate how each country perceives the need to safeguard intellectual property. Moreover, this index evaluates when each country signed the agreement in question, which allows us to understand if the protection of intellectual property is traditionally considered important in that country or whether this realization is more recent.

The basic hypothesis is that when the index of membership in international conventions records a high number, the level of protection of IPRs is high and piracy rates low.

#### *Law Enforcement*

The index described above comes up against an obvious limitation in the sense that conventions are pacts which every nation is free to decide to join. These agreements must then be taken in and applied in a concrete fashion within each country's borders. Often wide gaps arise between what is prescribed in international regulations and what actually happens in each country. It is necessary, therefore, to quantify the degree of law enforcement. In this work we utilize the *Corruption Perceptions Index* (CPI) compiled by Transparency International on a

yearly basis. The supposition is that high CPI values are related to low piracy levels. One can rightly assume that the better able a country is to enforce regulations, the greater the chance that they will be respected.

### *Strength of Economic Institutions*

The strength of economic institutions refers primarily to the level of development of instruments for safeguarding contracts and defending property. The analysis starts off with the hypothesis that the differences in intellectual property rights reflect a greater inequality in terms of social and economic institutions (Marron and Steel, 2000). Some studies offer empirical support for this idea, demonstrating a positive correlation between institutions and economic performance. Knack and Keefer (1995) and Hall and Jones (1996) ascertain that nations with a solid apparatus for the protection of property and contracts can lay claim to growth and productivity levels far superior to countries with weaker structures.

To determine the strength of institutions, data from the Political Risk Services were utilized. This organization drafts reports on the level of socio-economic risk present in each nation. The publication of reference is the *International Country Risk Guide* (ICRG) which provides detailed assessments for a wide range of international investors on the monthly basis. Among the indicators published there are some which regard security of property and contracts. Knack and Keefer (1995) identify five (*Tradition of Law and Order; Government's Propensity to Repudiate Contracts; Quality of the Bureaucracy; Extent of Corruption; Risk of Expropriation*). Consistent with the work by these two authors, in this paper too the same five factors have been taken into account, summed up in a single datum.

## **3.2. Cultural Variables**

### *Individualism/Collectivism*

One of the aspects that most sharply differentiates communities is the relationship between the individual and society. This has to do with one's predisposition toward the social good (collectivism) compared to the tendency to think of one's own personal interest (individualism). In so-called individualistic cultures, each person *takes part in* the society, while in collectivistic cultures, the individual *is* the society (Bodega, 2002). How human beings live with one another has a direct influence on lifestyles, rules shared at community level, and behaviors adopted by individuals. To assess the degree of openness of the people of each country to a group or individual philosophy, Hofstede (1991) proposes an operationalization useful for research purposes. This indicator has been referred to in several other studies, in recognition of the fact that it derives from business studies and can be extended to the evaluation of a country system. Triandis and Bhawuk (1997) emphasize how in countries committed to collectivism, there is little tolerance for behavior that deviates from codes of conduct shared by the group. In addition, the assessment parameter for moral or immoral behavior is constituted by the good of the group, whether it be the family, the work team, or a group of friends. The fundamental value is equality, contrary to individualistic societies where focus lies on fairness or meritocracy.

With fairness theories as the takeoff point, Glass and Wood (1996) study the exchange of illegal copies of software in the United States. The result is that piracy is actually considered a normal transaction which rests on an implicit appraisal of benefits and sacrifices. In an individualistic society, naturally the focal point of this mindset is the individual. The external environment is of little importance. In collectivistic cultures, emphasis is placed on sharing group values. Each

actor tends to reflect on and evaluate actions and choices on the basis of collective benefits or sacrifices.

The hypothesis that derives from this discussion is that illegal products will be more likely to circulate in an environment where a group culture prevails, as a series of studies carried out in Eastern regions of the globe seem to confirm (Ang et al., 2001). This would lead us to an understanding of the school of thought which exists in certain youth-centric circles with progressive ideologies by which getting hold of free music or movies is a sign of freedom in the face of the advance of capitalism.

### *Power Distance*

Hofstede defines power distance as the extent to which the less powerful members of institutions and organizations within a country expect and accept that power is distributed unequally (Hofstede, 1991, p. 28).

Power imbalance is a common element in all human organizations. In countries where the power distance index is high, hierarchical relations can take the form of paternalism, a mechanism in social relationships by which the superior individual protects, defends and safeguards subordinates in exchange for their loyalty. Hofstede highlights how this type of interaction already exists in primary social institutions such as the family. In countries more prone to accept inequality, parents tend to teach their children to be submissive to authority. In other places there is greater propensity to treat children as equals.

The expectation is that where there are high levels of power distance, there is a greater probability of tolerance toward unethical behavior by superiors. By the same token, one can surmise that in societies where distribution of power is more balanced, there is less tendency to accept morally dubious practices. Cohen, Pant, and Sharp (1996) actually come to the conclusion that subordinates, in a society very strongly orientated toward high levels of power distance, see certain business practices as acceptable which in other national contexts would be considered extralegal.

### *Orientation toward Human Relationships*

The orientation toward human relationships gauges the intensity with which individuals tend to take on altruistic, generous behavior. In this paper, the "Human Orientation" variable is utilized. This parameter, developed by researchers from the *Globe Project*, is defined as, "The degree to which individuals in organizations or societies encourage and reward individuals for being fair, altruistic, friendly, generous, caring, and kind to others" (House et al., 2002). Hofstede and Bond (1988) propose a somewhat different variable, "Kind Heartedness", while Kluckhohn (1962) develops the aspect of "Human Nature Is Good vs. Human Nature Is Bad". Reference is also made to Putnam's analysis (1993) which empirically demonstrates that the success of a democratic government depends on the extent to which citizens approach the ideal of a civic community. Among the variables taken into account by the author, alongside "Civic Engagement", "Political Equality" and "Associations" comes "Solidarity, Trust and Tolerance". "Virtuous citizens are helpful, respectful and trustful toward one another, even when they differ on matters of substance" (Putnam, 1993). Orientation toward trust in interpersonal relationships and sharing of resources in the name of solidarity is thought to be the predominant characteristic of civic communities.

Nonetheless, it proves difficult to speculate on what sort of relationship exists between orientation toward human relationships and piracy. One would expect that in societies characterized by marked orientation toward such relationships, a community spirit prevails, for the sake of which people accept extralegal behavior that favors the dissemination of knowledge throughout the population.

### *Masculinity/Femininity*

It is generally accepted in the literature that social communities can be positioned on a continuum with masculine and feminine traits at the two extremes. In masculine communities, there is a pronounced differentiation of roles and duties, according to the idea that it's up to men to handle all situations based on strength and power. In more feminine communities, greater attention is placed on quality of life. Hofstede analyzes these aspects utilizing a masculinity/femininity indicator, arriving at the conclusion that typical of the feminine side is a distinct orientation toward social needs and collaboration, while the focus of a masculine community lies on the individual dimension (Hofstede, 1991). Cohen, Pant, and Sharp (1996), taking off from Hofstede's analysis, point out that the connection between gender differentiation and illegal behavior is quite tenuous. Conversely, Vitell, Nwachukwu and Barnes (1993) theorize that the predominance of masculinity can be associated with a rise in the tolerance threshold and a consequent expansion of the set of extralegal actions accepted by the society.

Referring specifically to the piracy problem, Sims, Cheng and Teegen (1996) conducted a study throughout the United States. They discovered that the profile of a software pirate is characterized by masculine traits, and that men are more often involved in illegal duplication of support systems. Though the research was carried out at an individual level, and clearly the behavior of individuals can not predict a generalized cultural tendency, this data does provide valid support for the theory that piracy positively correlates to masculinity.

## **3.3 Socio-economic Variables**

### *Average Wealth per Capita and Inequality in the Distribution of Income*

The Gross Domestic Product, an extremely concise indicator of average available wealth, measures the capacity of a country to generate wealth and well-being. Widely used in macro-economic studies, the GDP is also referred to in studies centered on piracy and counterfeiting issues (Ronkainem and Guerrero-Cusumano, 2001; Marron and Steel, 2000; Husted, 2000). All studies give credence to the theory that as the GDP increases, attention to IPRs intensifies at the same rate, corresponding with a limited number of violations of intellectual property rights.

In actual fact, piracy is a very peculiar economic problem. Theoretically, the wealthier segment of the population, having strong buying power, has little incentive to buy pirated copies. On the other hand, those people living in poor economic conditions very often do not have access to the equipment necessary to use illegal products. This last consideration is especially true in the case of software piracy. The hardware needed to use it, in underdeveloped countries, is only available to a small circle of people – the elite who have high income and the required technological literacy - to the exclusion of poorer classes.<sup>2</sup>

Traphagan and Griffith (1998) observe that in developing countries, software is only used by an elite group of individuals, not by all citizens. As a result, for a given level of economic development, one would expect that software piracy is prevalent in nations with a larger middle class. In fact, evidence suggests that the phenomenon of illegal copies is particularly common

at universities, a privilege of the middle class. However, an additional hypothesis is also valid: as economic development augments along with the number of people who use software, the State takes more defensive action and there are fewer cases of illegal copying.

Moreover, Sims and others (1996) find that family income is closely correlated to the possibility or impossibility to afford original products, evidence that again leans in the direction of higher levels of piracy in countries with widespread poverty. In the case of music and movie piracy, access to equipment plays a minor role as less expensive technology, with a higher degree of market penetration, is involved.

#### *Orientation Toward Services: the Production Structure*

In this paper, the Orientation toward Services index is utilized, which measures the extent to which the economy of a country revolves around industry and the tertiary sector. High index values indicate highly developed countries, where the majority of the population works in industrial and service sectors. Richer economies have production structures built around industry and the tertiary sector, while in less developed countries agriculture is central to the economy. The differences are enormous, especially in view of the number of people who work in the three areas. In the more developed countries in our sampling, an extremely small percentage of the population (3-5%) is able to satisfy the demands of the agricultural sector, while in less advanced economies, this number is more than half of the working population.

This said, it proves complicated to theorize on how the production structure impacts the piracy phenomenon. On one hand, the expectation would be that the problem of illegal copying comes to the fore in national contexts where industry and the service sector dominate. Particularly in terms of software, one would think that its illegal use primarily occurs in work environments where the use of a computer is essential. On the other hand, it seems clear that economies with a structure centered on tertiary sector are also those in which intellectual work plays an important role. At this point the incentive to shore up defence of IPRs comes into play, and consequently it is less likely that the counterfeiting phenomenon will take hold.

#### *Education*

Park and Ginarte (1997) point out that as the average level of education of a country's population rises, requests for protection of intellectual property augment at the same rate. High levels of education correlate with a broader range of IPRs and a stronger thrust toward the protection of creative activities (Marron and Steel, 2000). To measure the level of education of a population, the average number of years of schooling for people over 25 was used (Barro and Lee, 1996).

#### *Availability of Technology*

A rather ambiguous connection exists between piracy and technological evolution. Technology, on one hand, offers the possibility for new protection mechanisms for creative work, in particular in terms of restricted access and anti-piracy systems. On the other hand, technology is the main vehicle for more advanced forms of counterfeiting and illegal duplication. Technology, moreover, is a prerequisite for the exploitation of a product. In all sectors analysed (music, movies, and software) the product is saved on a support system (digital or magnetic tape) which requires specific equipment in order to be used (computer, cassette or CD player, VCR, DVD player, mobile phone). It is particularly interesting to note the availability of technology in each country so as to understand what correlation exists with the level of piracy there.

Therefore, a synthetic indicator has been compiled that is able to measure the technological evolution of each country, taking into consideration six different areas: personal computers, internet connection, mobile telephony, fixed telephony, radio, television.

### *Breakdown of the Population by Age Group*

Many studies conducted by organizations and associations, both national and international, aim to draw a socio-demographic profile of the people who buy or make pirated materials. What emerges is that young people are most often involved in this type of action, as demonstrated by research carried out by the Federation Against Music Piracy, in collaboration with ACNielsen (in Italy) and Ipsos for BSA (May 2002). Young people are in the front line, above all in newer forms of piracy such as file sharing.

The basic reasons for this situation are three. First of all, young people have limited buying power, which leads to higher tolerance toward extralegal practices that allow them to spend less money. Secondly, at least in more advanced economies, young people represent that segment of the population where know-how regarding information technology is more widespread. The high degree of technological literacy guarantees the set of knowledge necessary to make illegal copies of original products, or to utilize more innovative on-line communication systems, such as peer-to-peer instruments. Thirdly, among young people, rules of the group are very strongly felt, by which members who can get around the rules of the system are rewarded by relatively prestigious status.

### **3.4 Dependent Variables**

In the analytical models that follow, dependent variables are represented by average piracy rates from 1999 to 2002 in the three sectors studied: software, music, and movies. The use of an averaged dependent variable is common practice in similar studies (Ronkainen and Guerrero-Cusumano, 2001; Marron and Steel, 2000; Husted, 2000) as this means that the influence of single variations occurring in recent years can be avoided. In terms of the time period, data prior to 1999 was purposely excluded to ensure the reliability of resulting statistics, given the rapid evolution of the phenomenon in question and related technological conditions.

The data source for software piracy is the Business Software Alliance, an American organization whose members are the top computer program producers.<sup>3</sup> Estimates are based on the comparison between numbers of original software packages sold throughout the year and PCs marketed in the same time period. Estimates are in percentages, where 0% indicates the total absence of piracy and 100% the maximum rate of counterfeiting. As regards music and video piracy, instead, the source is the Intellectual Property Alliance (IIPA), an American organization that represents over 1,300 producers and distributors of material protected by copyright worldwide. The reference publication is the *Annual Special 301 Reviews*, compiled in close collaboration with the United States Trade Representative (USTR). For the music business, two other sources are also used: UNESCO and IFPI, the International Music Federation. In this case too the numbers regarding piracy are given in percentages, where 0% means that all supports in circulation are originals, while 100% indicates all are counterfeit.



## 4. The Analysis: Methodology

### 4.1. Sample

Our sample consists of 76 countries for software piracy, 73 for music piracy and 64 for movies. Discrepancies in the sample derive from different availability of data sources (calculations based on BSA and IIPA data). Breakdown by macro-geographic areas is as follows: Africa (6); Latin America (18); Asia/Pacific (14); Eastern Europe (13); Middle East (7); North America (2); Western Europe (16). With the exception of Pakistan and Nigeria, which are counted among countries with low human development (138th and 148th place on the *Human Development Index*), all other nations are at a medium (34) or high (40) level of development (UNDP 2002). Table 1 shows the complete list of nations included in the analysis, with the average piracy rate of each.

**Table 1:  
Countries Included in the Analysis**

Country	Average Piracy Levels			Country	Average Piracy Levels		
	SW	Music	Movies		SW	Music	Movies
Argentina	61	47	45	Lebanon	81	65	70
Australia	31	7	4	Lithuania	66	85	88
Austria	34	5	NA	Malaysia	69	61	80
Belgium	33	12	NA	Mexico	56	70	55
Bolivia	79	85	100	Morocco	61	50	NA
Brazil	57	54	34	Netherlands	40	13	22
Bulgaria	75	74	23	New Zealand	27	7	NA
Canada	39	3	NA	Nicaragua	78	90	95
Chile	51	33	36	Nigeria	68	NA	70
China	92	91	90	Norway	35	5	6
Colombia	54	63	81	Pakistan	82	88	72
Costa Rica	66	43	54	Panama	62	56	60
Croatia	63	NA	NA	Paraguay	76	95	80
Czech Rep.	42	32	18	Peru	61	94	60
Denmark	26	3	5	Philippines	66	32	74
Dominican Republic	66	73	65	Poland	55	36	27
Ecuador	64	90	95	Portugal	44	35	NA
Egypt	60	44	40	Qatar	79	22	28
El Salvador	76	40	53	Romania	76	70	60
Estonia	62	63	48	Russia	88	68	85
Finland	28	15	7	Saudi Arabia	56	42	53
France	42	4	11	Singapore	50	20	25
Germany	30	4	20	Slovakia	46	10	20
Greece	66	52	17	Slovenia	63	16	NA
Guatemala	73	60	63	South Africa	41	19	16
Honduras	69	80	90	Spain	50	30	5
Hong Kong	56	60	20	Sweden	33	5	4
Hungary	49	25	38	Switzerland	33	5	15
India	66	40	65	Thailand	79	43	63
Indonesia	88	63	90	Turkey	63	45	55
Ireland	44	5	27	UAE	42	6	35
Israel	41	38	50	UK	26	2	12
Italy	46	24	21	Ukraine	89	75	NA
Japan	35	3	NA	Uruguay	65	45	53
Kenya	70	NA	NA	US	24	5	5
Korea (South)	51	18	23	Venezuela	57	65	65
Kuwait	78	67	88	Vietnam	96	100	100
Latvia	70	66	89	Zimbabwe	65	18	NA

## 4.2. Measurements: Independent Variables

Table 2 summarizes sources, standards of measurement, and values of all independent variables.

**Table 2:  
Independent Variables**

Independent Variables	Index	Data Source	Range	Values
Membership in international agreements	Index of Membership in International Agreements	Authors' elaboration of WIPO data	0 (no membership in international agreements) - 38 (membership in all international agreements analyzed)	Data up to 2004
Law enforcement	Corruption Perceptions Index	Transparency International	0 (minimum enforcement) - 10 (maximum enforcement)	Average 1999-2002
Strength of economic institutions	Index of Strength of Economic Institutions	Authors' elaboration of data from Political Risk Services (International Country Risk Guide)	0 (weak institutions) - 10 (strong institutions)	Average 1999-2002
Individualism	Index of Individualism	Hofstede	0 (collectivistic society) - 100 (individualistic society)	Hofstede (early '80s)
Power distance	Index of Power Distance	Globe Project	0 (minimum power distance) - 7 (maximum power distance)	Globe research (1993-2002)
Orientation toward human relationships	Index of Orientation Toward Relationships	Globe Project	0 (minimum orientation) - 7 (maximum orientation)	Globe research (1993-2002)
Masculinity	Index of Masculinity	Hofstede	0 (feminine traits prevail) -100 (masculine traits prevail)	Hofstede (early '80s)
Average wealth per capita	GDP	World Bank	US Dollars (1995)	Average 1999-2002
Income distribution inequality	Gini Index	Gini	0 (total equality in income distribution) - 100 (total inequality)	Average 1999-2002
Orientation toward services	Index of Orientation toward Services	Authors' elaboration of World Bank data	Percentage	Average 1999-2002
Average level of education	Average number of years of education after the age of 25	Barro and Lee (1996)	N° of years for over-25s	Level as of 1996
Available technology	Technology Availability Index	Authors' elaboration of United Nations data (Human Development Report)	0 (minimum available technology) - 6 (maximum available technology)	Average 1999-2002
Weight of 15-29 age group in population	% of 15-29 yr olds in total population	United Nations (Human Development Report)	Percentage	Average 1999-2002

## 5. Results

Multiple regression analysis is performed in order to compare the relative impact of each factor on piracy levels (our dependent variable). In particular, we separately test the same theoretical model on music, movies and software, with a cross-section approach. Results (see table 3) are robust, with R-square always well over 70% and good variables significance.

**Table 3:  
Linear Regression Models**

Variables	Software			Music			Movies		
	Beta	t	Sig.	Beta	t	Sig.	Beta	T	Sig.
Agreement Membership Index	.017	.22	.821	-.003	-.031	.975	.021	.18	.858
Enforcement (CPI)	<b>-.474</b>	<b>-3.71</b>	<b>.000</b>	<b>-.542</b>	<b>-3.03</b>	<b>.004</b>	<b>-.518</b>	<b>-2.74</b>	<b>.008</b>
Strength of Econ. Inst.	<b>-.218</b>	<b>-2.52</b>	<b>.014</b>	-.132	-1.09	.277	-.083	-.65	.515
Individualism	<b>-.463</b>	<b>-4.94</b>	<b>.000</b>	<b>-.452</b>	<b>-3.43</b>	<b>.001</b>	<b>-.315</b>	<b>-2.11</b>	<b>.040</b>
Power Distance	<b>-.138</b>	<b>-2.12</b>	<b>.038</b>	<b>-.207</b>	<b>-2.22</b>	<b>.030</b>	-.077	-.78	.439
Relationship Orientation	.060	.82	.415	.027	.25	.799	<b>.237</b>	<b>2.17</b>	<b>.034</b>
Masculinity	.089	1.56	.123	.040	.50	.616	.040	.46	.642
GDP per capita	<b>-.296</b>	<b>-2.38</b>	<b>.020</b>	<b>-.375</b>	<b>-2.12</b>	<b>.037</b>	<b>-.310</b>	<b>-1.95</b>	<b>.042</b>
Gini Index	.031	.39	.696	.104	.953	.345	.082	.75	.455
Service Orientation	<b>-.219</b>	<b>-3.40</b>	<b>.001</b>	-.099	-.955	.344	.060	.57	.568
Average N° years education	<b>-.230</b>	<b>-2.67</b>	<b>.010</b>	<b>-.218</b>	<b>-1.79</b>	<b>.079</b>	<b>-.292</b>	<b>-2.31</b>	<b>.025</b>
Technology Availability	.019	.10	.918	.046	.177	.860	-.057	-.21	.834
% pop. aged 15-29	<b>-.282</b>	<b>-2.73</b>	<b>.008</b>	<b>.288</b>	<b>1.89</b>	<b>.063</b>	<b>.255</b>	<b>1.73</b>	<b>.089</b>

Four variables take on identical characteristics in the three sectors, maintaining high levels of significance: Individualism, Law Enforcement, GDP, and Average Level of Education of the Population. Evidence suggests that when there is an increase in a) orientation toward individualism, b) the effort dedicated to applying a regulatory framework, c) wealth per capita, and d) levels of education, average piracy rates fall.

The education index warrants special attention. Combined with the GDP, this index proves effective in predicting the phenomenon in question. In this regard, it would be legitimate to

presume that the education factor does not have a direct effect on piracy rates, but one that is mediated by average wealth of the nation, due to the close link with economic development and the degree of access to and quality of the educational system. On the contrary, results call attention to the fact that education carries its own significance, with autonomous impact on dependent variables.

The fifth factor, percentage weight of 15-29 year olds in the total population, produces peculiar results: though maintaining a constant level of significance, this aspect shows a positive correlation with music and video piracy, and a negative one with software. This outcome merits further comment: from studies conducted for the most part in the US, the fact emerges that in the software sector too, the younger segment of the population is more exposed to violations of intellectual property rights. Statistical analysis brings the contrary relationship to the surface. The contrast may be explained by taking what happens in developed and developing countries and considering each separately. In the former, there is a positive causal link between piracy of software programs and a young population. In less developed nations, the relationship is invalidated by extremely high figures on piracy encompassing all segments of the population. Therefore, we can hypothesize that the minus sign in the software model is due to the prevailing influence of developing countries (where illegal use of software programs is more common).

Four variables prove statistically insignificant in the three models: Membership in International Agreements, Inequality in Income Distribution, Index of Technology Availability, Masculinity. The results from the first index highlight that the willingness of governments to participate in large international conventions does not, in and of itself, constitute a guarantee of success in terms of defending intellectual property. Much more important, instead, is the determination with which anti-piracy laws are implemented, as clearly demonstrated by the results obtained with the enforcement index.

Service orientation, which gauges the degree of polarization of the economy of a country around industry and the service sector, proves statistically insignificant only in the regression regarding software piracy. This result fully confirms expectations. The illegal use of software programs is, first and foremost, a problem relating to the business world, while music and movie piracy takes on more “private” connotations. What’s more, the type of relationship shouldn’t be surprising: the more dominant industry and the service sector in a country, the lower the piracy rate. This can be attributed to the fact that societies where these areas carry more weight also are more advanced economically, and have more sophisticated systems for implementing IPRs. A causal link between piracy and strength of economic institutions is only evident in the software regression. As the guarantee of respect for property and contracts grows, the illegal software market shrinks.

Lastly, worthy of note are results obtained for two cultural variables that go alongside Individualism/Collectivism: the Power Distance Index and Orientation toward Human Relationships. The first directly impacts piracy levels, but in a way that is contrary to the initial hypothesis. As power distance tolerated in a society increases, the average percentage of non-original product in circulation decreases. The reason can very probably be found in the fact that communities characterized by less hierarchical structures are also those orientated toward a group philosophy. Orientation toward human relationships, on the other hand, proves significant only in the regression regarding movie piracy.

## 6. Conclusions and Policy Implications

The results of these regression analyses prompt reflection on policy implications. Specifically, four areas can be identified where intervention would reduce the piracy phenomenon.

The first area of intervention is enforcement, which takes on ever greater importance in the less developed zones of the world. Taking action on enforcement means, firstly, attempting to enhance synchronization processes among national systems for the protection of property rights. In other words, reference is made to the type of sanctions applied to offenders, which today varies widely from country to country. In addition closer collaboration should come into play between industry and the authorities responsible for applying the law. Public/private partnerships, through evolved forms of networks and international agencies appear to be the principal route to follow.

The objective is centralization of knowledge, which would lead to a systematic “patrimonialization” of best practices in the battle against piracy, and their dissemination in various countries. Finally, many believe that the solution to the problem of illegal copying lies in granting additional powers to competent authorities. This refers in particular to sentencing offenders and requiring that counterfeiters and pirates reveal all information on sources of illegal support systems, distribution channels and how they work, and the identity of other actors involved in the production and sale of pirated goods (AEPOC 2003).

The second area of intervention relates to consumers, and involves two major courses of action. First, it is necessary to refine instruments for enhancing customer loyalty. The objective is to create a system of evolved relationships between producers and consumers, which also takes advantage of new technologies to boost interactivity between supply and demand, and to come up with a package of contents or added advantages exclusively for people who buy original products. This risk, well known by now, is the defensive positioning of the music and movie industries with respect to new distribution media. If entertainment does not invest in Internet, there is a very good chance that it will not be able to make up for lost time in terms of supporting consumer habits. The second course of action suggest itself from the results obtained through the analysis of the cultural sphere. In this case, what becomes crucial is the framework of community values which characterizes social groups in their entirety. An important example is the aspect of Individualism/Collectivism. In countries with a stronger focus on a group philosophy, the tendency to share creative and intellectual work predominates. To effectively fight the piracy problem in these nations, extralegal behavior must be made to seem damaging to one’s image in the eyes of other group members. It would be difficult for an anti-piracy campaign that focuses on the criminal aspect of copying to achieve consistent success.

The third area of intervention is market structures. Data have brought to light the fact that the extent of piracy is significantly conditioned by socio-economic factors. The reality is that young people (the population segment with less money to spend) have a strong propensity toward the illegal use of others’ creative work. Likewise, the link between a nation’s average income, disproportionate distribution of wealth, and piracy is solid. Several potential methods are available for intervening on the market structure. Among these, particular attention should be focused on diversification and differentiation strategies of products/services offered. The aim is to optimise the willingness to pay of single “clusters”, which, depending on the level of analysis, can be sets of nations (e.g. developed or developing), business or home segments (primarily for the software segment), or social groups within single nations.

The final area of intervention is content protection systems. Only indirect, partial reference is made to this aspect; in fact, the level of content protection is seen, in this analysis, as an implicit “static” variable. From a methodological standpoint this decision is justified by the fact that measures undertaken to safeguard product integrity are identical in all distribution channels and outlet markets. However, an interesting observation is that content protection systems (encryption and decryption technologies, copy control devices, etc.) can be a valid means of intervention in the battle against counterfeiting.

The biggest obstacle to the use of such systems is that they inhibit the free use of products which in many regulatory frameworks is allowed, for example, making backup copies of software or duplicating musical and video support systems for personal use. It must also be noted that these devices are constantly under attack by professional pirates, and that such tools do not provide high protection for extended periods of time.

In any case, our study confirms evidence that the piracy phenomenon is extremely complex and multi-faceted, since many factors are involved: individuals’ value systems, community cognitive structures, economic context and regulatory frameworks. From this comes the indication that acting on one of the areas presented will not likely lead to exceptional results. The challenge that competent organizations find themselves facing is, instead, to strive for continuous integration among all areas of intervention outlined here, so as to strike a balance between interests and needs of those who produce and those who make use of creativity.

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## Notes

<sup>1</sup> Broad-based copyright enforcement refers to all forms of intervention aimed at taking across the board legal action against the piracy market: taxes on support systems and equipment for reproduction, interception and destruction of illegal copies, penalties for those who distribute counterfeit goods (Harbaugh and Khemka, 2001).

<sup>2</sup> The penetration indices for personal computers provide a very clear picture of the situation: in the US more than 600 people out of 1000 have a PC, while in poorer countries this number rarely reaches into the hundreds.

<sup>3</sup> Regarding the objectivity and impartiality of this source, some doubts could arise due to the fact that the BSA represents its own producers. In this study, however, reference is made to percentage rates of piracy in various countries around the world, giving preference to the comparative rather than absolute aspect. No doubt less exact are figures regarding estimated losses, which do not take into account local pricing policies nor, more importantly, the fact that not all software would be purchased if it were impossible to make illegal copies.

There seems to be no evidence that leads us to believe that the BSA has some specific interest in over- or under-estimating the magnitude of piracy in given areas of the world. Added to this is the fact that data published by the organization are widely accepted by experts and leaders in the sector as the most reliable measurement of the phenomenon (Marron and Steel, 2000).

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## ANEXO 4

### Is the Party Over? Innovation and Music on the web



# Is the Party Over? Innovation and Music on the Web

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## ABSTRACT

*This paper examines the current position of copyright for the music industry in the light of innovation and diffusion of technologies which enable audio file sharing amongst web users. We note that there currently appears to be conflicting assessments between the major corporations and the many small firms in Europe with regard to the business potential for online music. In particular, we show that the convergence of technologies together with the emergence of particular practices of 'net culture' have posed a number of marketing opportunities and threats for industry incumbents. The role of the Napster program, as well as subsequent innovations in peer-to-peer software, is examined together with the responses that have been made by different sections of industry.*

### COVERAGE



## INTRODUCTION

This paper attempts to assess the position of copyright for the music industry in the light of the development, diffusion and use of software to enable the free exchange of music files over the web. The music industry is both global and national in character. The stability of the business, and particularly the status of copyright protection, has recently become problematic due to technological developments in both computer hardware and in software affecting access to the Internet. In this article, we show that the convergence of technologies together with the emergence of particular practices of 'net culture' have posed a num-

ber of marketing opportunities and threats for industry incumbents. The role of the Napster program, as well as subsequent innovations in peer-to-peer software, is examined together with the responses that have been made by different sections of industry. We conclude that after years of conflict there are now signs of a more proactive approach by the industry in rather belated recognition of the importance of the Web as a market research, branding and customer relationship building tool.

## BACKGROUND

The music industry is dominated by a few

### KEYWORDS

Ethics  
Intellectual property  
Innovation  
Napster  
Copyright

global corporations which over time have tended towards consolidation, with economically powerful firms taking over smaller, less established record labels.

There are four multi-media corporations that incorporate the major record labels, which together with the UK's EMI are estimated to account for around 70% of the world music market (Negus, 1999). These firms comprise Sony (Japan), AOL/Time Warner (USA), the German firm Bertelsmann, which owns BMG and Vivendi, based in France, which owns Universal. They have increasingly diversified into media and consumer electronics in an attempt to control the many uncertainties in the market. In terms of music acts, their profitability has now become dependent on high global sales of a few major artists who have popular appeal in many different countries. In fact, the exploitation of owned copyrights is a key component of sustained profitability in the business, through sales and licensing of re-releases and thematic compilations (Burnett, 1996). Music consumers, however, are motivated by a number of factors beyond a global popular industry, and there are specific national and local variations to the market, as well as a proliferation of genres. In addition to the large firms, the music industry comprises many smaller firms catering to local tastes which have been particularly influential in terms of finding and developing new successful artists. This independent sector consists of firms that are either totally or partially owned by one of the large companies, as well as independent firms (Barrow and Newby, 1996).

The challenge presented by the new digital technologies to the defence of copyright has long been recognised as a critical issue in the academic literature (Dickson and Coles, 2000). Particularly, in the developing field of computer ethics, reassessment of the traditional application of intellectual property rights has become

established as an issue of concern (Maury and Kleiner, 2002). In practical terms, the status of digital information and technical change has led to recent changes to existing law in the USA and in Europe to strengthen traditional rights (Spinello and Tavini, 2001). In software development, a debate has arisen over issues such as fair use versus copyright protection. The question of ownership has been raised in conjunction with issues such as software licensing versus open source software (Dutton, 1996). In general, legal cases brought in the USA (notably over DVD encryption) have been accused of tending to favour the might of the established industry over the control and use of technology to protect free speech and fair use (Spinello and Tavini, 2001).

These authors have also been argued that copyright is an inflexible protection that does not reflect the transformed nature of information in a digital environment. For example, as publishing is much cheaper in electronic form, the protection needed by copyright to mitigate the risks involved is reduced. The challenge presented to the music industry relates to this change in the 'value' of digital information, a factor which has been compounded by the development and adoption of complementary technologies. Introduction of the combination of MP3 software, peer-to-peer file servers and re-writable compact disc (CDR) technology for a basic home computer allows ease of music copying and threatens to disrupt the music industry through challenges to copyright protection. The prospect of millions of users downloading new recordings before official release fundamentally undermines business stability, notwithstanding the accusations of unfair practice by the major labels (Martin, 1995). In fact, both music piracy and bootlegging are already entrenched both as a local and a global phenomenon, as witnessed by the problems of piracy faced by national musicians in some African countries (notably Uganda) while CD piracy is a global industry in its own right. It is not unknown for developers of software which facilitates the exchange of music files over the web to make personal judgements about the ethical as opposed to the legal position of the industry, in order to justify their own activities in developing music sharing software (Awekofuo, 2002).

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**The challenge presented by the new digital technologies to the defence of copyright has long been recognised as a critical issue**

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## MUSIC AND THE WEB

The move towards exploitation and control of copyright by the music industry is at odds with the emergence of the Internet as a forum for e-commerce which raises the profile of the user and gives more influence to the customer. Much has been written about the potential offered by e-commerce to reach a global audience, tempered by the assertion that businesses need to understand 'Internet culture' (which has been defined as 'often anarchic, communal, public spirited') in order to take advantage of these opportunities (Goggin, 2000). Such cultural expectations of Internet users led early proponents of e-commerce to regard the Web as a 'gift economy' where users expect to acquire a certain amount of 'free' information. This cultural norm has reduced the status and hence economic value of web-based information, thereby loading the business question 'will customers pay?'

The diffusion of information technology could be ignored by the large music firms while audio files remained large, unwieldy and memory-hungry. However, in the mid-1980s, the International Standards Organisation started to develop a standard protocol to allow the compression of video files which would enable large amounts of data to be transferred digitally between networked computers. This protocol became widely known by the term MP3 (Tidd et al, 2000). At the time, the Internet was still a research project funded by the US Department of Defence and home computing was searching for an application to win mass appeal. In the sphere of home entertainment, vinyl struggled against the increasing popularity of the compact disc (CD). Hailed as a liberation at the time, and significant in retrospect, Sony revolutionized the idea of personal music by introducing the portable 'Walkman' in 1985 (Jones, 1992). The Web was envisioned in the business as a future means of saving on manufacturing and retailing costs rather than a fundamental challenge to the status quo, and a slow trouble-free adoption was foreseen, as expressed by an industry spokesman for the International Federation of Phonogram Industries (IFPI):

'We know that some time in the future, recorded music will be widely

available on-line...Our challenge is how to get from here to there with an industry intact.' (Burnett, 1996, p.2)

What was not realised was how fast the technology would change to wrong-foot industry strategists. As noted above, it was the development of an open standard for audio file transfer which heralded a new crisis in the global industry. In 1988 the moving pictures expert group (MPEG) was created to agree a common codex scheme for digital audio with the aim of avoiding a standards war. By 1992 MPEG had developed a standard for audio and video coding called MPEG -1 Layer III, shortened to MP3. A German firm (Fraunhofer Gesellschaft) now holds key patents as it was originally involved in the development, supported by a European Eureka project grant. New digital media files could now be handled in a standard way by the industry, through a number of innovative coding techniques. The adoption of MP3 predated both the development and popular diffusion of the Web and innovations in the capabilities of domestic computers with fast data transmission rates and large storage capacities. Compressed music files take much less storage space than conventional audio files and, in addition, allow more music to be digitally stored on one CD. MP3 files are constructed to exploit weaknesses in the human auditory system by mimicking the way in which the human ear hears music. Rather than accurately reproducing sounds in the way the CD does, the MP3 files store the relative frequencies of individual musical parts, giving more data space to a loud instrument than a soft one, so that 'MP3 files manage to fool our ears into thinking there's a lot more audio information in the file' (Web User, 2001). Its success is based on the fact that it appears to be truly difficult for the average listener to notice a difference in sound quality between MP3 and conventional CD.

The MP3 developers had not considered the possibility of illegal action arising from an open-source standard, but a number of early MP3 adopters started using it to put music on their computers and to swap tracks. Questions of copyright infringement and lost revenue soon arose. MP3.com was the first firm to be set up to exploit the new medium by becoming a

means to find online bands, while others were attempting to introduce rival formats. By 1998 the demonstrated popularity of the MP3 format for online music files led to the introduction of the first portable MP3 player by Diamond Multimedia. RIAA, as the voice of the 'big 5' in the USA, wanted to check the pace and if possible halt the diffusion of MP3 music files. It immediately brought legal action against the company, on the grounds that it was encouraging the infringement of copyright, but the case went against it (Alderman, 2001). It became clear that the established industry was prepared to fight the digital revolution, not with new technology and new thinking, but through the old established route of litigation and censure. The RIAA soon emerged in its role as the 'industry policeman' and the Association gave strong support for the US Digital Millennium Copyright Act ratified by Congress in 1998, which protected existing copyright holders in the digital realm. The industry has therefore responded by both aggressive legal defence of copyrights to try and suppress new innovation and also by its own technological developments, for example in initiating the Secure Digital Music Initiative (SDMI). In 1999, a coalition of companies in the technology and music industry committed to developing new technology to prevent illegal distribution of copyrighted music over the internet. The recent development of a new version of MP3 (MP3 PRO) to compress files even further, could soon blur the picture further as it permits downloading of sound and vision. This could lead to a new generation of television and film piracy (Web User, 2001).

So in summary, it was an unprecedented convergence in innovative technologies which resulted in the illegal downloading of audio tracks using MP3 technology by music fans around the world, thereby encouraging the 'big 5' music companies to co-operate to try and prevent free exchange of copyrighted music via the internet. As we will examine in the next section, central to this action was the legal case brought in the USA by the Recording Industry Association of America (RIAA) against the peer-to-peer file swapping service offered by a small start-up firm called Napster. The fallout from this legal action included attempts by the industry to spearhead the development of new capabilities

in security programs and copy-protect software to protect their investment in music copyrights. It served also as a wake up call to encourage the development of innovative and legitimate on-line business practices for music in the 'new economy'.

## NAPSTER

In 1998 Shaun Fanning, a student from New Jersey, envisaged that the Internet might become a global system for music distribution 'outside traditional structures'. He developed a ground breaking piece of software which he named Napster, aiming to simplify the process of searching for music on the internet by linking together every users' computer and sharing the stored files. The Napster program exploited the novel peer-to-peer format and worked as a giant music-sharing club, as any request for music by one user was met through scanning the hard drive of all users for matching MP3 files. Named files were held on the Napster server, so that, while not hosting music itself, it enabled a wide search for the requested music (Spar, 2001). The service was launched in May 1999, using technology which would allow trade in MP3 files between linked PCs. Two key aspects of its use rapidly emerged. The first was the overwhelming speed of uptake (by mid-2000 an estimated 500,000 people were using the service every day). Its ease of use made Napster far superior to the sites the industry had supported. The second feature was that the most sought after music was commercial and popular – Napster had become the 'ideal swap meet' for the very music that the industry relied upon to make its profits [33]. The massive interest in Napster came to the attention of Metallica, a band that was very popular with the MP3 downloaders. The band's response was to have everyone taken off the server if they had illegally downloaded Metallica music. Although this was assertive action, it was felt to be misjudged because it antagonised fans and, in retrospect, 'looked greedy' (The Guardian, 2000).

This rapid growth in popularity fuelled by illegal copyright infringement was too much for the 'big 5' to sit back and watch. By December 1999 the RIAA filed a lawsuit against Napster to prohibit the

exchange of copyrighted songs (Alderman, 2001). By the following October, and following a number of legal actions and counter-action, an injunction was granted to the RIAA. However, one of the big companies, Bertelsmann, had started to talk about a necessary balance between legal restriction and technological development, and broke ranks to form a partnership with Napster in order to develop a membership-based service. In January 2001 a deal was signed between Napster and independent record labels in the form of the UK's Association of Independent Music (AIM) and the European Independent Music Companies Association (IMPALA) to create a world wide licensing agreement, recognising the 'grassroots, fan-based nature of the independent music sector'. The aim was to promote cultural diversity and to help ensure small firms' access to online music and the expansion of music markets (AIM press release, 2001). At its peak it was estimated that the number of Napster users reached 80 million, people were 'signing up to swap songs' and that these activities were a celebration of 'net culture' at its best:

'Napster was the best thing to happen to music since Lennon met McCartney (depending on your point of view). Not since kids first realised that they could tape the charts off the radio had there been such cash-saving musical anarchy' (Gibson, 2002).

In some quarters it was felt that a blow had been made in favour of the consumer over the all powerful, controlling global capital:

'Napster and MP3 are cheered as the poster boys of consumer democracy, while the music giants are jeered as greedy spoilsports' (Web User, 2001).

In practice, it was not difficult to find people who had no qualms about the violating the legality of copyright, or who had never considered the legal issues when downloading music files. By February 2001 the US Court of Appeal finally upheld a ruling that Napster had been guilty of copyright infringement by aiding the illegal behaviour of its users. Napster was finally taken offline in July 2001, pending settlement of the many copyright infringement claims. The

company was now financially dependent on Bertelsmann. However, this action took place amid ongoing speculation that the industry would not be able to shut down alternative peer-to-peer programs that were being launched (Schofield 2001) and claims that the global music industry was almost guilty of censure in taking Napster offline continued. Supporters of web music put forward the idea that Napster had exploratory uses, allowing fans to search out new artists, listen to little known tracks or deleted records, activity which actually increased total music sales over the longer term. Furthermore, it was suggested that prosecution of the company was like 'blaming the photocopier' for illegal duplication of written work (Web user, 2001).

## POST-NAPSTER

Throughout the Napster episode, the music industry took the stand that legitimate sales of CDs would be affected by illegal MP3 downloads. In retrospect, global sales did fall during 2001, although there was considerable variation in National patterns. For releases of major popular songs, CD sales fell in three of the top five markets. These were USA, Japan and Germany, however, in the UK, the third largest market in the world and in France, sales had risen. An annual variation therefore, was not easily attributed solely to the MP3 phenomenon. IFPI put the blame on a number

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**It was not difficult to find people who had no qualms about the violating the legality of copyright, or who had never considered the legal issues when downloading music files.**

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of sources, including the ease of copying and the effect of competition from other sections of the entertainment sector for consumer spending (IFPI press release, 2002). IFPI suggested that the industry should respond by adopting copy-protect technology on all new CD releases. However, an alternative explanation of the

figures was clearly that the quality of the product has a major effect on sales, supported by the fact that both the UK and French markets has been bolstered by strong support for national, rather than international, artists. Confusingly the British Phonographic Industries association (BPI) reported that in 2001 there was both a growth in sales in the UK and a rapid (30%) growth in CDR piracy.

After the Napster debacle it was suggested that the industry had been too slow and defensive in its response to the MP3 'revolution'. Napster had established the web as a popular tool for music distribution, highlighting to the industry the need to encourage legitimate methods of downloading that involve some form of payment. One problem was recognised as the need for music downloads to 'feel free' after Napster (Alderman, 2001). One of the main beneficiaries could be unsigned bands, as they have limited budgets for promotion. As people search for new experiences on the Web, sites promoting new music could become more influential. Also, moves by other sections of the industry demonstrated that the attitude of the RIAA in defending established interests under copyright law in the USA did not speak for the global industry. In the UK, the AIM representing over 400 independent record labels which account for 26% of UK retail sales, announced its backing for a trial of licensed music on internet radio play-lists). In a supportive statement, the chairman of the independent Beggars Group label said:

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**The future for online music distribution appears to be a legal version of Napster-type software**

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'For small labels to get the benefit of the opportunities the internet offers, we need to join forces now, so that consumers can hear more new music than they do currently' (AIM press release, 2001).

So there are competing objectives within the industry with the large firms trying to

restrict the distribution of certain types of music, convinced that the internet is in competition to other forms of distribution, while other sectors want to increase the availability and opportunity for users to access new music, believing that exposure will encourage experimentation and boost sales. The basic issue is whether music available on the web acts like a music retailer or an infinitely malleable radio resource. Certainly, there were strong challenges to the status quo, as more and more popular bands made their pre-released music available on the web, drawing the artists directly into the fray (Lewis, 2002).

## THE FUTURE OF ONLINE MUSIC

The availability of music on the web via the MP3 format is too recent to make any reasonable judgment as to what the future might look like. Although music piracy is an ongoing, endemic problem for the 'big 5', it is not yet clear whether MP3 users buy more or less music as a result of their online searches. In fact it has been suggested that there is some bad news for the industry in respect of its heavy handed attempts to control music online with legal and technical measures, in the form of consumer resistance (Best, 2001). As music can still be accessed online, the industry has been reduced to pleading with its customers to stop (Majendie, 2002). More recently then, questions have been raised as to how the internet will develop now music has become an integral part of online activities. The advent of portable MP3 players, and their growing popularity despite the early legal challenge, has encouraged a new wave of organizing CD collections and compiling personal play lists, while the popularity of web radio is growing. The versatility of the technology, which allows even the less experienced user to convert existing CD tracks to MP3 files to play on the computer or with a portable player, leaves web pundits to declare, 'there's no doubt that these (MP3) files have been embraced by the internet generation' (Web User, 2001).

In addition the development of the file swapping services such as Napster and the subsequent freely available programs, despite their problems with copyright music, still leaves plenty of legal tracks

available to download. The future for online music distribution appears to be a legal version of Napster-type software, which becomes a mainstay of online distribution and ensures that music is paid for in some way, as 'once people have fast internet links there will be little incentive for music aficionados to head down to HMV or Virgin only to find the CD they were craving isn't in stock' (Web User, 2001). Advantages may accrue from such online distribution, as it should be easier for the record labels to distribute more obscure, less popular acts, although access to such a wide range of music will be impossible on sites based on copyright restrictions, and SDMI technology could be used to inconvenience the user, as non-standard encrypted formats prevent CDs being played on home computers or transferred to portable MP3 players. It is difficult not to find a certain explicit support for the advantages that Napster offered its millions of users:

The large record companies may not be able to stop decentralized file-swapping services from staying in operation...the problem they face is that peer-to-peer software...is not very difficult to develop...The (legal) services won't feature bootlegs and live recordings that are popular on Napster' (Web User, 2001).

A number of new file-sharing programs have been developed which avoid the central server system that Napster was based on and which provided a focus for the legal action. These new programs, termed 'decentralised', were free to download, but effectively made criminals of the individuals who would of course be illegal users as well as well informed customers. However, the case of Metallica, who targeted their individual fans early in the Napster case had demonstrated the intense unpopularity of such a move in terms of public relations as well as being expensive and ineffective. Easy-to-find guides are still being published to help users find the new peer-to-peer programs, and a certain ethical tone is also discernable in terms of urging 'responsible use'. 'Listening to a bootleg to decide if you want to buy the CD seems harmless. Downloading an entire record collection doesn't' (Web User, 2001). The potential for uncontrolled copying of music could affect

the industry at its very foundation, and has grave implications not only for the large multi-nationals but for many firms operating at a national and even a local level. Not least to be affected are the artists and a number have publicly come out on one or other side of the fence. Remarks by established Jazz musician, Herbie Hancock encapsulate the issues:

'I'm deeply concerned about the outcome of the online music conflict and with good reason: playing music happens to be my livelihood. Now the internet comes along and offers not only wonderful promise and incredible seductive dangers, but it is also helping to influence long-running conflicts within the current music distribution system' (Alderman, 2001).

The key to getting customers to pay for music might lie in the extra content that the large companies are in the position to offer, such as news and gossip that cannot be found offline, web-casts of live concerts, or the opportunity to listen to new releases to decide whether or not to purchase. Perfectly legal new applications have continued to develop, a site called Grovetech is a catalogue of electronic dance music, featuring more than 25,000 tracks for independent record labels offered for sale as 'customers realise how easy and hassle free online shopping has become' (Music Week, 2002). The industry has also backed the development of new technological controls such as copy protect technology and the development of virus-like software to search the web for illegal file sharing activity. BMG tried a copy-protect technology (the Cactus Data Shell) to stop CDs being turned into MP3 files but, as it meant that the CD could not be played on PC drives, the offending discs had to be recalled. The Campaign for Digital Rights complained that the firm should have warned customers of the limitations of the protective software, a move that would no doubt have adversely affected sales (Web User, 2002). The industry still seems caught between the widespread diffusion of technology, high level of demand for free, easy to use downloads, and resistance to expensive, legal protected sites. In the UK the industry association, the British Phonographic



Industry (BPI) added Internet piracy to its established fight against CD pirates, being most concerned about those attempting to profit from piracy. Internet auction sites were a particular area for vigilance, and in 2001, over 2,000 illegal auction sites were closed down, and individuals who advertised pirated recordings were prosecuted. Almost in desperation, IFPI has suggested

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**Continuous innovation in the peer-to-peer format, however, has exposed the limitations of slow and incumbent legal challenges in the digital environment.**

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it might prosecute individuals for persistent downloads of copyrighted music, leading to speculation that the industry has been reduced to 'trying to scare people' (Web User, 2002).

In a broad review of the changing attitude of the music industry to the activities online, Lewis (2002) attempts to assess the current situation. Noting that a number of release dates for major artists had rapidly been brought forward due to their availability online, Interscope, the label representing the popular rap star Eminem, claimed the reason was 'due to rampant internet piracy and illegal bootlegging'. A digital top ten of 'most played' MP3 tracks featured 'The Eminem Show' at number 2, before it had been officially released. Interscope realised that retailers had responded by selling the CD earlier than instructed. Here was the essence of the impact of the internet music conundrum, consumer demand had publicized the new album to a massive extent before the label was ready, but also appeared to have stimulated legitimate demand for the product. More recently, similar circumstances have affected other prominent bands in popular music. For example, early in 2002, the new Oasis album was available on the internet almost before recording had been completed, stimulating speculation that it had reached the Internet not from early promotional discs sent to the radio stations, but from illicit recordings made in the studio.

Music on the Web can be a rich forum for pre-market research. The labels have finally admitted that the fearful 'Internet pirates', those who were genuinely swapping songs rather than attempting to profit from them, were indeed the consumers that the industry was trying to target. The 'big 5' have belatedly realised that the Internet is indeed a massive information resource. They began surveying both legal and illegal peer-to-peer networks for information and insight into customer tastes. Here apparently was a giant marketing opportunity, a chance to increase control over an unpredictable and volatile market. The web is now seen as an opportunity to avoid 'surprise hits' by collecting information on popular search terms, contents of shared music files, popularity of downloaded tracks, and detailed information on particular genres to gain insight into the requirements of particular communities (Lewis, 2002). The Internet offers 'huge potential to allow artists and labels to develop strong, lasting relationships with music fans'. The major labels are now preparing to build on fan loyalty by offering free or exclusive content from secure websites, such as information, unreleased recordings, tickets and merchandise. Online platforms can be a more efficient and less expensive method of exposure than getting airtime on the radio. Online availability of a track was shown to 'warm up' an audience for less commercial releases, which, in turn seems to translate into sales.

## CONCLUSION

The adoption and use of MP3 software on the web, in conjunction with developments in computer memory size and recordable CDs has thrown up a number of unforeseen dilemmas for the global music industry. Not least was the speed and size of uptake of the original Napster service, indicating a huge on-line demand, and confirming views about the influence wielded by web-users. The power of the consumer has already been identified as integral to e-commerce success in other contexts. As the previous section has demonstrated, there are signs that the music industry is starting to regard the Internet as a marketing opportunity rather than a threat and it

would be interesting to track the progress of this strategy through a longitudinal study.

The episode has also exposed different priorities within the music industry. Control of Napster was crucial to the 'big 5' as an attempt to suppress the ease of file swapping by music fans in a global market place. Napster spearheaded the growth of an 'uncontrollable' market in digital music file swapping, which, drawing on the 'free culture' of the internet as well as the established practice of home copying, appeared initially to be 'unprofitable' to the industry. Closing Napster could have worked in favour of the large firms through controlling user access to music on the web and preventing the diffusion of music promoted by smaller labels through such an online service. Here there was a distinct clash of interests between the desire of lesser known bands to gain some online exposure to build a fan base and the need to control unlimited access to the popular, profitable music. Continuous innovation in the peer-to-peer format, however, has exposed the limitations of slow and incumbent legal challenges in the digital environment. Fundamental to these events is the apparent lack of consumer loyalty to and trust of the music labels, and this issue poses another marketing challenge. The fragmentation of the net into genres could favour the smaller 'grassroots' labels and could also put greater power into the hands of individual consumers and musicians to revolutionise the existing industry structure.

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## ANEXO 5

**International Intellectual Property Alliance.**

**Carta al representante de la oficina de Comercio Exterior  
de los EEUU.**





February 13, 2006

Ms. Victoria Espinel  
 Acting Assistant U.S. Trade Representative  
 for Intellectual Property  
 Office of the United States  
 Trade Representative  
 600 17th Street, N.W.  
 Washington, D.C. 20508

Re: Request for Public Comment on the Identification of Countries under Section 182 of the Trade Act of 1974 (as amended) ("Special 301"), 71 Fed. Reg. 2166 (Jan. 17, 2006)

Dear Ms. Espinel:

This filing responds to the Request for Written Submissions appearing on January 17, 2006 in the Federal Register. The request invites submissions from the public on policies and practices that should be considered in connection with designating countries as Priority Foreign Countries pursuant to Section 182 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. § 2242 ("Special 301"). The Special 301 provisions call upon the United States Trade Representative to identify countries which, *inter alia*, "deny adequate and effective protection" to U.S. intellectual property or deny "fair and equitable market access" to U.S. persons who rely on intellectual property protection.

The International Intellectual Property Alliance (IIPA) submits our discussion of the types, levels, and costs of piracy, an evaluation of enforcement practices to reduce those levels, and the status of copyright law reform in 46 separate country reports. We also recommend where these countries should be ranked on the various Special 301 watch lists. We highlight seven challenges and initiatives in this letter that define the copyright industries' agenda for the coming year. Finally, we mention 22 additional countries/territories that we have not recommended be on a Special 301 list but which merit attention by the U.S. government in its bilateral engagements with those countries.

**A. IIPA AND THE COPYRIGHT INDUSTRIES IN THE U.S. ECONOMY**

The International Intellectual Property Alliance (IIPA) is a private sector coalition formed in 1984 to represent the U.S. copyright-based industries in bilateral and multilateral efforts to improve international protection of copyrighted materials. IIPA is comprised of seven trade associations, each representing a significant segment of the U.S. copyright community. These member associations represent over 1,900 U.S. companies producing and distributing materials

protected by copyright laws throughout the world—all types of computer software, including business applications software and entertainment software (such as videogame CDs, DVDs and cartridges, personal computer CD-ROMs and multimedia products); theatrical films, television programs, home videos and digital representations of audiovisual works; musical compositions, records, CDs, and audiocassettes; and textbooks, trade books, reference and professional publications and journals (in both electronic and print media).

In October 2004, the IIPA released an economic report entitled *Copyright Industries in the U.S. Economy: The 2004 Report*, the tenth such study written by Stephen Siwek of Economists Inc. This report details the economic impact and contributions of U.S. copyright industries to U.S. Gross Domestic Product, employment, and trade. The latest data show that the “core” U.S. copyright industries<sup>1</sup> accounted for 6% of U.S. GDP or \$626.6 billion in value-added in 2002. In the last 25 years (1977-2002), the core copyright industries’ share of GDP grew at an annual rate more than twice as fast as the remainder of the economy (7.0% vs. 3.0%). Also over these 25 years, employment in the core copyright industries grew to 5.48 million workers (4% of total U.S. employment). In 2002, the U.S. copyright industries achieved foreign sales and exports of \$89.26 billion. The copyright industries’ foreign sales and exports continue to be larger than other major industry sectors, including chemicals and related products, automobiles, parts and accessories, and aircraft and associated equipment sectors. It is essential to the continued growth and future competitiveness of these industries that our trading partners provide not only free and open markets, but also high levels of protection to the copyrights on which this trade depends. This protection upon which so much U.S. economic performance rests is under constantly evolving threats, and it is critical to sustaining U.S. economic competitiveness that our response remains flexible, innovative and committed. There are certain sectors of the U.S. copyright community, notably the music sector, that are already witnessing significant declines in foreign sales and royalty remittances as a consequence of increased levels and new forms of piracy, and it is essential that we address these problems on an urgent basis.

## B. OUTLINE OF IIPA’S SPECIAL 301 SUBMISSION

As in prior years, IIPA’s submission contains several separate sections. It is important for the reader to review not only each country survey in Appendix C, but also the other appendices that describe key elements that may be referenced in the country survey. Included in this year’s submission are the following:

- This letter, which (1) outlines IIPA’s recommendations for cross-cutting initiatives to be undertaken by the copyright industries and the U.S. government for 2006; (2) summarizes our submission this year; and (3) points the reader to various appendices;
- Appendix A, which contains IIPA’s country placement recommendations, estimated trade losses due to piracy, and estimated levels of piracy;
- Appendix B, which describes IIPA members’ methodology for calculating estimated trade losses, piracy levels, and global data on optical disc factories and production capacity;

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<sup>1</sup> The “total” copyright industries include the “core” industries plus those that, under conservative assumptions, distribute such products or other products that depend wholly or principally on copyrighted materials. The “core” copyright industries are those that create copyrighted materials as their primary product.

- Appendix C, which includes all the country surveys<sup>2</sup> and at the end lists 22 countries that deserve continued U.S. government attention but which we have not recommended for placement on the Special 301 lists;
- Appendix D, which provides a historical chart of countries/territories' placement on Special 301 lists by USTR since 1989; and
- Appendix E, which contains the Special 301 histories of countries/territories which we have recommended for placement on a list this year, many other countries that have appeared on USTR's lists in the past and are still candidates for monitoring intellectual property practices, and certain other countries/territories that have never appeared on a USTR list but which deserve attention.

### C. COPYRIGHT INDUSTRIES' INITIATIVES AND CHALLENGES IN 2006

The goal of this submission is to improve copyright protection and reduce global piracy levels by employing the various bilateral, plurilateral and multilateral tools available to the U.S. government. Without these trade tools and their full implementation, the U.S. copyright industries would still be facing a world of inadequate copyright laws—the world which our industries faced in the early 1980s. In that world, most countries' laws did not even protect U.S. works at all, and 90% to 100% piracy levels prevailed in most developing countries. Since the first marriage of intellectual property and trade in the Trade and Tariff Act of 1984 and formation of the IIPA, the later adoption of the "Special 301" provisions in the 1988 Trade Act, and the adoption or modification of the U.S. unilateral trade preference programs, such as GSP, CBERA, ATPA and others, U.S. government initiatives have produced significant legal and enforcement improvements. This largely untold success story has produced billions of dollars of increased revenue and millions of new jobs to both U.S. and local copyright industries. However, despite these successes, the U.S. copyright industries (and copyright creators and their industries worldwide) still face grave, and in many respects, growing, threats in the 21st century. These threats emanate largely from the growth of digital and on-line technology, the increased organization of commercial pirates, and, most important, the failure of governments to adequately enforce their new laws. An effective response to these challenges will require a renewed commitment to use both the old and new tools available to industry and governments.

In our last seven Special 301 filings, IIPA outlined a series of challenges facing the copyright-based industries. This year, we have updated these challenges/objectives to take into account new developments and new challenges.

The copyright industries are extremely grateful for the U.S. government's efforts in promoting copyright reform and effective enforcement. But, as is clearly demonstrated in the country surveys included in this report, organized commercial piracy, whether digital or analog, tangible or over the Internet, combined with the failure of these governments to enforce their existing copyright and related laws, threatens to outpace the fight to combat it. IIPA believes that a significantly heightened effort is called for to make further progress on the following objectives in 2006. We believe the tools exist to make significant progress—the issue is whether all governments have the political will to take the actions necessary to address piracy meaningfully and to lower piracy rates locally and globally. The following objectives are not

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<sup>2</sup> Country surveys were prepared by Maria Strong, IIPA Vice President and General Counsel; Michael Schlesinger, IIPA Vice President and Associate General Counsel; Eric H. Smith, IIPA President; Steven J. Metalitz, IIPA Senior Vice President; Eric J. Schwartz, IIPA Vice President and Special Counsel; and are based on information furnished by IIPA member associations. We also thank the Smith & Metalitz LLP staff, Melissa Braford, Pam Burchette, Lauren Braford, and Kristen Schumacher, for their contributions in preparing, producing and distributing this submission.

necessarily listed in order of priority, since different issues may demand priority attention in different countries.

### **Effective and Deterrent Enforcement Against Copyright Piracy**

The copyright industries most important global goal is to significantly reduce piracy levels in order to open foreign markets, and create increased revenue and employment. Only through effective deterrent enforcement, as required by the WTO TRIPS Agreement and the various Free Trade Agreements (FTAs) which the U.S. has recently negotiated, can this goal be met. The lack of effective enforcement undergirds virtually all the initiatives/challenges described below, as well as the credibility of the multilateral and bilateral agreements entered into by the United States.

The industry and the U.S. government have been engaged for over twenty years in many countries with the highest piracy levels to secure deterrent levels of enforcement that would bring piracy levels down to acceptable levels. Even following implementation of the TRIPS agreement's new enforcement obligations in 1996 and 2000, many countries still have not meaningfully upgraded their enforcement systems to meet their international obligations by adopting effective remedies and imposing deterrent penalties. While there has been a general global upgrading of police ability, and in many cases willingness, to conduct raids on pirate production, wholesale and retail sites, increased seizures of pirate product has not been enough. The necessary deterrence requires capable and aware prosecutors and judges (or, where applicable, administrative agencies) that are willing to impose penalties that would remove the significant monetary incentives that drive the pirate trade. Many enforcement systems lack that willingness. Pirates whose vast economic gains amount to hundreds of thousands to millions of U.S. dollars simply cannot be deterred through mere monetary fines. Deterrence requires substantial prison sentences in these cases. Again and again, in country after country, our industry has witnessed major pirates either evading conviction (as a result of systemic delays or corruption) or being slapped with monetary fines that do not even come close to providing the disincentive needed to deter them from continuing in this illegal business. Again and again, raided stores reopen quickly with new product, or major producers continue their trade in a new guise to avoid the next enforcement action, which may never come, or may come only after the pirate has lined his pockets with more millions in illegal income.

Since no country will ultimately undertake effective reform unless it understands that it is in its own interest, it is essential that the U.S. government continue to take steps that will facilitate such an understanding, and that increase the capacity of willing governments to take effective action. Among the strategies that could be employed are:

- Better coordinated enforcement training, including localized training that shows the benefits of deterrent enforcement.
- Better coordination among U.S. agencies and between those agencies and industry, and with international organizations with training resources;
- Creating "best enforcement practices" models, including legislative provisions and specific and practical reforms at the police, prosecutorial and judicial levels. These would be based on the TRIPS text and the U.S. FTA models, but with far greater detail to assist the enforcement authorities. This could include recommendations for "zero tolerance" policies against retail piracy and specific actions to be taken in the area of Internet piracy. It should include model sentencing guidelines that would help the authorities in assessing what

- penalties will actually deter pirates;
- Setting specific enforcement targets for countries in bilateral negotiations;
  - Considering the negotiation of plurilateral enforcement agreements among countries based on these “best enforcement practices” and negotiated targets.

We believe the Special 301 process must specifically target enforcement in a very direct and clear way. It is a fact that many countries believe that Special 301 ranking decisions can be made on the basis of law reform, followed by enforcement “promises” alone. Experience has taught us that this simply hasn’t worked. Countries should be made acutely aware that they will not see a change in their Special 301 placement unless they take the specific enforcement actions necessary to actually reduce piracy rates.

### **Internet Piracy, Electronic Commerce and the WIPO Internet Treaties**

**The Scope of the Problem:** Copyright piracy on the Internet, a serious problem for the past several years, is undergoing explosive growth, and threatens to undermine the very foundations of electronic commerce in this new millennium. While broadband offers exciting prospects for the legitimate dissemination of copyrighted materials of all kinds, too often access to high-speed Internet connections is being used to distribute unauthorized copies of sound recordings, software, videogames, literary material, and motion pictures. This has suppressed legitimate consumption.

The unprecedented growth of the Internet and increased availability of broadband connections, coupled with the absence of adequate copyright law and enforcement in the online environment in many countries, has provided pirates with a highly efficient distribution network to reach the global market. Pirates offering and distributing infringing product can now reach any part of the world with ease, no matter where they are located. Consequently, the U.S. copyright industries face the daunting task of trying to enforce their legal rights in an online world where borders and distances have decreasing practical significance.

Quantifying the economic losses due to Internet piracy and allocating those losses to particular countries are extremely challenging problems. Because of these challenges, IIPA’s estimates of piracy levels and of trade losses due to piracy do not yet take into account piracy on the Internet. Yet we know that Internet piracy is growing rapidly and an urgent response is greatly needed. We must act quickly and on a global basis to secure the adoption of legal provisions that will prevent piracy and to create a legal and regulatory environment that will facilitate the growth of legitimate online delivery of copyrighted materials.

**The Legal and Enforcement Solutions:** IIPA recommends that USTR and the U.S. government more broadly work with our industries to adopt a focused and comprehensive strategy to attack Internet piracy. The challenge is two-tiered. First, governments need to adopt stronger laws that are tailored to address online copyright piracy. Second, as described above, those laws must be vigorously enforced.

Well established international norms such as the WTO TRIPS Agreement contribute valuable elements to the needed legal infrastructure to protect electronic commerce and combat Internet piracy. In particular, WTO TRIPS contains a technology-neutral obligation to provide “expeditious remedies to prevent infringements and remedies which constitute a deterrent to future infringements” (Article 41). The fight against this new form of piracy must be conducted under the copyright principles contained in this agreement, and particularly through application of the existing enforcement tools described there.



In addition, the two treaties adopted by the World Intellectual Property Organization (WIPO) Diplomatic Conference in Geneva in December 1996 provide an additional and more tailored framework for what is needed to protect the transmission of content in e-commerce. These treaties, the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), are now in force, and their effective implementation is critical in the fight to control this new and ominous threat. These treaties are part of the international legal standards with which countries must comply in order to provide the “adequate and effective” copyright protection that is demanded under the Special 301 program. These standards include clarifying exclusive rights in the online world, and, in addition, specifically prohibiting the production of or trafficking in tools that circumvent technological protection measures (TPMs) for copyrighted works.

Finally, as described further below, the more specific and clarified enforcement obligations in the U.S. government’s Free Trade Agreements also establish binding enforcement obligations which should form the underpinnings of the Internet enforcement systems in these countries, and eventually in all countries.

IIPA and its members have joined with their counterpart copyright industries around the world to push for ratification and full implementation of the WCT and WPPT in all countries. The first phase of these efforts—bringing the treaties into force through the accession to each of at least 30 countries—was completed in 2002. As of February 10, 2006, official deposits of the treaties with WIPO stood at 58 for the WCT and 57 for the WPPT. More and more countries are now beginning to legislate in this area.

Ensuring that these standards are effectively embodied in national law is the heart of the critical second phase of the WIPO Treaties implementation effort. Since the treaties were adopted, IIPA has been monitoring those countries that are amending their statutory regimes to make them compatible with their TRIPS obligations as well as with the WIPO Internet Treaties. If countries delay in making these needed changes, the prejudicial impact on electronic commerce and the protection of intellectual property online might be irreversible. The coming into force of the WCT and WPPT provides a powerful additional reason for countries to make the necessary legal changes now. The U.S., which has already implemented the changes to its laws needed to meet the standards of the treaties by enacting Title I of the Digital Millennium Copyright Act (DMCA), should continue to make it a priority to encourage other countries to follow this path.<sup>3</sup>

Even in the online world, there is no substitute for vigorous enforcement of new and existing laws. To protect the revenue streams and millions of new jobs created by the copyright industries, governments must become flexible and fast moving if they want to deal with a medium that is constantly shifting and evolving. Renewed emphasis on training is vital to giving enforcement authorities the tools to quickly locate infringing Internet sites and pursue actions against the offenders who commit the most damage and/or refuse to remove the infringing content. Public education about the dangers of online infringement must be emphasized as well. As global boundaries continue to lose much of their practical relevance because of Internet growth, the usual lines separating the roles of industry and government in policy, enforcement and education must also evolve. Close coordination will be the key to success in this challenging new environment. Efforts should be undertaken to encourage global adoption of the Council of Europe Cybercrime Convention, which requires countries to adopt effective remedies

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<sup>3</sup> Digital Millennium Copyright Act of 1998, Pub. L. No. 105-304, 112 Stat. 2860 (1998). The United States deposited instruments of accession for both treaties on September 14, 1999.

for online copyright infringement, and which facilitates law enforcement cooperation across borders—something which must develop if governments are to be successful in addressing this pressing problem.

These law reform and enforcement measures are critical in deterring pirates from destroying the incredibly promising new tools for making copyrighted products available globally before right holders have had a chance to gain a foothold. IIPA members have significantly increased their monitoring of, and where possible, actions against pirate product traveling over the Internet in many of the countries discussed in this submission. Webcrawlers and other search technologies have been employed to ferret out piracy occurring in many languages in addition to English. One essential tool that should be made available globally is notification of ISPs by copyright owners through cease and desist letters in order to obtain their cooperation to “take down” or block access to infringing material immediately, and otherwise to prevent infringing conduct of all kinds. The effective use of such a “notice and takedown” tool is, in turn, dependent on a system of secondary liability, which exists in some but not all countries, and which must be effectively multilateralized to encourage responsible conduct and enable expeditious action against piracy at all levels of the delivery chain.

Finally, as we know from our own experience here in the U.S., we must find a global solution that discourages unauthorized peer-to-peer file sharing through aggressive enforcement against unauthorized uploaders of infringing product, whether of musical recordings, movies, business or entertainment software or literary material, as well as against services that provide these tools for the purpose of encouraging and profiting from infringement. If new legal Internet-based services for delivery of copyrighted material are to succeed, we must ensure that they are not undermined by unfair competition from unauthorized sources.

It is critical that governments, educational institutions and similar enterprises that provide broadband interconnections to their employees, students or others develop and enforce strong internal policies (such as executive orders in the case of governments) to prevent illegal file sharing of copyrighted materials, including through the use of peer-to-peer technologies. In addition, governments should help to ensure that Internet cafés use only legitimate software in the operation of their business, and that they prohibit use of their facilities for the commission of further infringements

Industry has been hard at work on these critical issues, but we need the help of the U.S. and foreign governments to make the Internet safe for e-commerce in copyrighted material.

### **Optical Disc Piracy**

Piracy of optical disc (OD) products today causes grave losses to all the copyright industries. Increasingly, all sectors of the copyright industry use a common set of media to distribute their products worldwide. These “optical disc” products include formats such as compact discs (CD), video CDs (VCD), CD-ROMs, CD-Recordables (CD-Rs), digital versatile discs (DVDs) and DVD-Recordables (DVD-Rs). An explosion in the world’s capacity to produce optical disc products has been driven by the ever-growing worldwide demand for copyrighted high-tech, entertainment and educational products, but also by the potential for pirates to generate billions of dollars in illegal income. Optical disc production capacity has for years greatly exceeded legitimate demand, with the difference inuring to the benefit of illegal pirate enterprises. Increasingly, recordable optical media are also used to “burn” unauthorized copies on a commercial basis. Pirate CDs, VCDs, CD-ROMs and DVDs, CD-Rs and DVD-Rs containing protected music, sound recordings, audiovisual works, business and entertainment

software and books and journals have quickly decimated the market for legitimate U.S. products. With the increased and more effective regulation of factory production, “burning” has nearly become our industries’ biggest “hard goods” piracy threat.

The growth in the number and capacity of optical disc factories around the globe has been staggering. Based on our survey of optical disc production in 79 countries/territories:

- There were as many as **1,117 optical disc production plants** in 2005, a 14% increase in the number of plants over 2004.
- Those plants had (not including blank facilities in Taiwan) at least **5,912 production lines**.
- Total production capacity worldwide was estimated at more than **30.8 billion discs per year** in 2005.

The following chart details this information. It is noteworthy that the greatest optical disc piracy threat continues to be in Asia and Eastern Europe/Russia.

<b>Estimated Number of Optical Disc Plants and Production Capacity in 79 Countries/Territories<sup>4</sup></b>									
Year	Plants			Production Lines			Estimated Capacity in Millions		
	2005	2004	2003	2005	2004	2003	2005	2004	2003
<b>ASIA</b>									
Australia	13	11	9	NA	59	96	NA	206.5	374.0
Bangladesh	2	2	NA	6	6	NA	21.0	21.0	NA
Burma/Myanmar	1	1	1	2	2	1	7.0	7.0	3.5
Cambodia	1	1	1	1	1	1	3.5	3.5	3.5
China	86	83	71	1,374	763	808	4,809.0	2,670.5	3,875.0
Hong Kong	106	88	112	817	805	538	2,859.5	2,817.5	2,455.0
India	20	12	9	166	378	334	581.0	1323.0	1,353.0
Indonesia	29	40	27	100	75	37	350.0	262.5	197.0
Japan	32	21	34	NA	297	941	NA	1,039.50	2,783.0
Korea	28	32	31	78	72	93	273.0	252.0	404.0
Laos	1	0	2	1	0	2	3.5	0.0	7.0
Macau	3	4	2	5	16	NA	17.5	56.0	0.0
Malaysia	41	32	38	NA	126	NA	300.0	441.0	1,871.0
New Zealand	3	NA	NA	3	NA	NA	10.5	NA	NA
Pakistan <sup>5</sup>	5	10	8	NA	25	25	NA	230.0	140.0
Philippines	11	16	7	38	26	21	133.0	91.0	73.5
Singapore	20	14	15	106	96	169	371.0	336.0	698.0
Sri Lanka	2	2	NA	2	2	NA	7.0	7.0	NA
Taiwan	89	44	61	341 <sup>6</sup>	2,818	2,171	10,700.0	9,863.0	7,779.0
Thailand	42	40	39	155	157	98	542.5	549.5	556.0
Vietnam	5	4	3	12	12	3	42.0	42.0	10.5
<b>SUB-TOTAL</b>	<b>540</b>	<b>457</b>	<b>470</b>	<b>3,207</b>	<b>5,736</b>	<b>5,338</b>	<b>21,031.0</b>	<b>20,218.5</b>	<b>22,583.0</b>
<b>E. EUROPE/CIS<sup>7</sup></b>									
Belarus	1	1	NA	2	1	NA	7.0	5.2	NA
Bulgaria	9	8	7	18	12	9	63.0	55.0	19.0

<sup>4</sup> The methodology used by IIPA to calculate estimated capacity is discussed in Appendix B of IIPA's 2006 Special 301 submission at [www.iipa.com/pdf/2006spec301methodology.pdf](http://www.iipa.com/pdf/2006spec301methodology.pdf).

<sup>5</sup> Pakistan: The capacity numbers in 2003 and 2004 represent actual production based on polycarbonate imports and various countries' customs data.

<sup>6</sup> This number is the estimated lines producing pre-recorded discs, while the capacity reported includes production of blank recordable discs. Estimated capacity of finished discs in Taiwan is roughly 1.2 billion discs.

<sup>7</sup> The capacity numbers in Bulgaria, Kazakhstan and Poland (2005 numbers) do not follow the IIPA methodology, and are based on plant visits and/or different per line capacity estimates. Many of the estimates from 2003 especially, but also 2004 (including Belarus, Bulgaria, Kazakhstan, Poland, Russia, and Serbia and Montenegro) did not follow the IIPA methodology.

### Estimated Number of Optical Disc Plants and Production Capacity in 79 Countries/Territories<sup>4</sup>

Year	Plants			Production Lines			Estimated Capacity in Millions		
	2005	2004	2003	2005	2004	2003	2005	2004	2003
Croatia	NA	1	NA	NA	1	NA	NA	3.5	NA
Czech Republic	4	4	4	NA	44	43	NA	154.0	193.0
Estonia	2	1	NA	2	1	NA	7.0	3.5	NA
Hungary	4	4	3	14	14	7	49.0	49.0	37.0
Kazakhstan	2	1	1	2	1	0	11.6	8.1	0.0
Lithuania	1	1	1	2	2	1	7.0	7.0	5.0
Poland	9	9	9	122	101	154	775.0	597.2	501.0
Romania	2	1	1	3	2	1	10.5	7.0	6.0
Russia	47	34	32	113	83	52	395.5	390.0	220.0
Serbia and Montenegro	4	4	NA	10	5	NA	35.0	25.0	NA
Slovenia	2	2	NA	5	5	NA	17.5	17.5	NA
Ukraine	5	5	4	14	13	5	49.0	49.5	31.0
<b>SUB-TOTAL</b>	<b>92</b>	<b>76</b>	<b>62</b>	<b>307</b>	<b>285</b>	<b>272</b>	<b>1,427.1</b>	<b>1,371.5</b>	<b>1,012.0</b>
<b>W. EUROPE</b>									
Austria	5	4	NA	8	6	NA	28.0	21.0	NA
Belgium	3	4	NA	25	25	NA	87.5	87.5	NA
Denmark	5	4	NA	36	16	NA	126.0	56.0	NA
Finland	3	3	NA	6	6	NA	21.0	21.0	NA
France	18	23	NA	204	156	NA	714.0	546.0	NA
Germany	42	44	NA	144	132	NA	504.0	462.0	NA
Greece	12	5	5	40	40	73	140.0	140.0	NA
Ireland	8	8	NA	70	70	NA	245.0	245.0	NA
Italy	29	23	23	101	119	182	353.5	416.5	801.0
Luxembourg	2	2	NA	19	19	NA	66.5	66.5	NA
Netherlands	17	18	NA	107	62	NA	374.5	217.0	NA
Portugal	3	3	NA	5	5	NA	17.5	17.5	NA
San Marino	2	2	NA	2	NA	NA	7.0	NA	NA
Spain	16	16	12	119	123	100	416.5	430.5	600.0
Sweden	5	7	NA	12	9	NA	42.0	31.5	NA
Switzerland	3	3	NA	11	11	NA	38.5	38.5	NA
United Kingdom	16	19	NA	128	90	NA	448.0	315.0	NA
<b>SUB-TOTAL</b>	<b>189</b>	<b>188</b>	<b>40</b>	<b>1,037</b>	<b>889</b>	<b>355</b>	<b>3,629.5</b>	<b>3,111.5</b>	<b>1,401.0</b>
<b>W. HEMISPHERE</b>									
Argentina	9	11	10	30	26	26	105.0	91.0	142.8
Brazil	13	11	9	88	91	128	308.0	318.5	624.9
Canada	17	17	NA	132	78	NA	462.0	273.0	NA
Chile	2	2	2	2	5	3	7.0	17.5	19.0
Colombia	2	2	2	9	9	8	31.5	31.5	48.0
Costa Rica	1	1	NA	1	1	NA	3.5	3.5	NA
Dominican Republic	1	1	1	1	1	1	3.5	3.5	7.0
Mexico	9	12	12	205	231	101	717.5	808.5	514.0
Paraguay	1	1	NA	1	1	NA	3.5	3.5	NA
Peru	2	3	3	3	5	3	10.5	17.5	17.0
United States	181	143	NA	740	348	NA	2,590.0	1,218.0	NA
Uruguay	1	1	NA	1	1	NA	3.5	3.5	NA
Venezuela	2	2	2	7	7	7	24.5	24.5	40.0
<b>SUB-TOTAL</b>	<b>241</b>	<b>207</b>	<b>41</b>	<b>1,220</b>	<b>804</b>	<b>277</b>	<b>4,270.0</b>	<b>2,814.0</b>	<b>1412.7</b>
<b>MIDDLE EAST</b>									
Algeria	4	3	NA	10	NA	NA	35.0	NA	NA
Egypt	4	4	4	6	6	4	21.0	21.0	23.0
Iran	2	2	NA	3	2	NA	10.5	7.0	NA
Israel	7	7	5	19	18	23	66.5	63.0	114.0
Jordan	1	1	NA	1	NA	NA	3.5	NA	NA

<b>Estimated Number of Optical Disc Plants and Production Capacity in 79 Countries/Territories<sup>4</sup></b>									
Year	Plants			Production Lines			Estimated Capacity in Millions		
	2005	2004	2003	2005	2004	2003	2005	2004	2003
Lebanon	1	1	1	1	1	1	3.5	3.5	7.0
Kuwait	1	NA	NA	3	NA	NA	10.5	NA	NA
Palestinian Authority	1	3	2	1	4	4	3.5	14.0	23.0
Saudi Arabia	1	3	1	6	7	NA	21.0	24.5	NA
Syria	2	1	1	5	1	NA	17.5	3.5	NA
Turkey	10	8	8	25	23	NA	87.5	80.5	NA
<b>SUB-TOTAL</b>	<b>34</b>	<b>33</b>	<b>22</b>	<b>80</b>	<b>62</b>	<b>32</b>	<b>280.0</b>	<b>217.0</b>	<b>167.0</b>
<b>AFRICA</b>									
Nigeria	15	8	NA	36	25	NA	126.0	87.5	NA
Senegal	1	1	NA	1	1	NA	3.5	3.5	NA
South Africa	5	3	3	24	12	NA	84.0	42.0	NA
<b>SUB-TOTAL</b>	<b>21</b>	<b>12</b>	<b>3</b>	<b>61</b>	<b>38</b>	<b>NA</b>	<b>213.5</b>	<b>133.0</b>	<b>NA</b>
<b>TOTALS</b>	<b>1,117</b>	<b>973</b>	<b>638</b>	<b>5,912<sup>8</sup></b>	<b>7,814</b>	<b>6,275</b>	<b>30,851.1</b>	<b>27,865.5</b>	<b>26,575.7</b>

The growing optical disc problem confronting the copyright sector, now familiar to governments worldwide, demands new and creative legislative and enforcement solutions. Traditional enforcement mechanisms have not been sufficient to prevent optical disc piracy from spinning out of control and flooding national, regional, and even global markets with millions of high-quality pirate products. As part of countries' WTO TRIPS obligations to provide deterrent enforcement against piracy "on a commercial scale," every country whose optical disc production facilities are producing significant pirate product should create and enforce a specialized regulatory framework for tracking the growth of optical disc production capacity, including the cross-border traffic in production equipment and raw materials, principally optical-grade polycarbonate. These regulatory regimes must include strict licensing controls on the operation of optical disc mastering and replication facilities, and the requirement to use identification tools that identify the plant in which production occurred and that help lead the authorities to the infringer. So far such regimes have been established in Bulgaria, China, Hong Kong, Indonesia, Macau, Malaysia, Philippines, Poland, Singapore, Taiwan, Thailand, Turkey, and Ukraine, are under consideration in Bahrain, India, and other countries, and are committed to be established in Oman. Increasingly, pirate optical disc production is migrating from jurisdictions with optical disc production regulatory regimes to countries that as yet have not adopted these regulatory tools, such as Russia, Pakistan, India, Vietnam, and many others mentioned in this submission. We urge the U.S. to press every country in the regions most affected by pirate optical disc production and export—including East Asia, South Asia, Eastern Europe, Russia and the countries of the former Soviet Union—to put comprehensive optical disc regulatory controls into place promptly. Otherwise, pirate syndicates will continue to transfer their optical disc operations across borders in an effort to stay one step ahead of enforcement efforts.

IIPA and its members have developed a number of resources to help governments in fashioning an effective optical disc regulatory system. We also note that governments have recognized the importance of effective regulations. In October 2003, APEC leaders agreed on the need to "stop optical disc piracy" and endorsed a set of "Effective Practices." We commend these to all governments addressing this problem. We stand ready to work with USTR to assist

<sup>8</sup> This total number of lines does not include Taiwan blank disc production lines. If we were to include these lines, the total number actually went up in 2005.

governments in understanding, drafting and implementing these recommendations into national law.

As these regimes have been adopted and enforcement under them has matured, the pirates have again taken advantage of technological developments, and moved production increasingly from the “factory” locus to smaller venues that are more private and harder to police. The newest generation of pirates uses much less expensive and more portable consumer “recordable” technology – CD and DVD “burning” on CD-Rs and DVD-Rs. That technology has now advanced so that with a very small investment, pirates can easily and cheaply replicate thousands of copies of copyrighted products for commercial sale. We refer here not to individual consumers “burning” copies but to aggressive commercial exploitation – often by the very same syndicates that operated the factories and generate millions of dollars for the pirate operators. In some countries, like Taiwan, Brazil, Mexico, Spain and many others, seizures of pirate product in 2005 were overwhelmingly of “burned” product. Commercial “burning” has nearly become the biggest piracy threat in the “hard goods” market. This new development calls for innovative responses. Improved enforcement machinery must aim at implementing zero tolerance policies against the offer for sale of pirate product. If pirates have no place to sell their products, their ability to manufacture becomes superfluous. Some countries are already responding by enacting absolute bans on street sales, with some positive results. Commitment from more countries to do the same is sorely needed.

In sum, regulations controlling and monitoring production need to be adopted, implemented and enforced, and must be accompanied by general copyright enforcement. As we have monitored the development of these regulatory regimes, it has become increasingly apparent, as it has with all piracy, that enforcement is again the key to the effective functioning of these new regimes. In too many cases, the regulations are put into place and then simply not enforced. This must end. Governments must be given the authority to conduct surprise inspections of optical disc production facilities to ensure full compliance, and then must actually engage in such inspections. They must deal effectively with commercial “burning” operations, and they must use that authority accompanied by vigorous enforcement. Deterrent penalties—including license revocation, confiscation of equipment and raw materials, and heavy fines and imprisonment—must be consistently and efficiently imposed on optical disc pirates, and governments must adopt and implement zero tolerance policies on the sale of infringing materials.

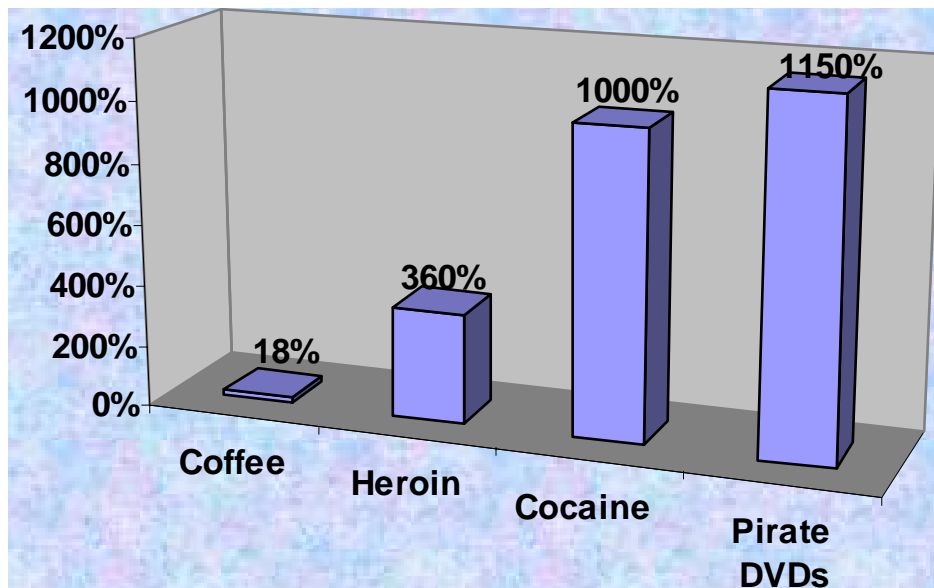
### **Piracy by Organized Crime Syndicates**

Because of the immense profits that can be garnered by producing pirate optical disc products, this illegal business has been taken over in many countries by organized crime syndicates, making it even more difficult for local authorities to combat the problem. These criminal syndicates are highly organized, are linked across national boundaries, and have powerful friends within governments. They have access to and control of large amounts of capital, and exploit complex distribution networks to engage in many kinds of criminal activity. In many cases, these powerful criminal networks are involved in multiple lines of criminal activities, including copyright piracy, drug smuggling, trade in illegal munitions, and money laundering. In some cases, the proceeds of copyright piracy have been used to fund terrorist organizations.

These syndicates control not only the production but the distribution of pirated and counterfeit optical disc products within the domestic market and around the world. For example, syndicates with optical disc production facilities in Southeast Asia work with partners in South America to conduct a thriving trans-Pacific trade in pirate music CDs, entertainment software,

and other optical disc products. These criminal networks are highly sophisticated and are becoming increasingly dangerous to deal with. Starting in 2003, responding to improved enforcement against factory pirate production, the syndicates began moving their illegal trade into CD-R and DVD-R “burning” and to the Internet. This phenomenon has grown to epidemic proportions in 2006.

In an October 2005 study by MPA, it was reported that the estimated criminal revenue in 2004 for IPR theft was \$512 billion, while for drug trafficking it was \$322 billion.<sup>9</sup> The following table from that same study shows graphically that the mark-up for DVD piracy is higher than that for cocaine and heroine, with the risk of getting caught and receiving deterrent punishment very significantly less.<sup>10</sup>



*Source:* Adapted from UK National Criminal Intelligence Service SU/Drug Project (2004); Cocaine markup is Colombia to Spain/U.K.; Heroin markup is from Iran to U.K.; DVD markup is from Malaysia to UK.

Examples of the involvement of organized crime on a global basis include:

- In a cross-jurisdiction operation called Operation Glaring Sun, **Hong Kong, Macau** and mainland **China** authorities in June 2005 arrested 1,600 triad members, raiding more than 1,900 locations, taking down 31 vice establishments, 30 gambling dens, nine drug dens and 61 pirate disc centers. Police froze US\$11 million belonging to the syndicates and seizures included 159,000 pirated and pornographic optical discs, US\$1.4 million worth of illegal betting slips, 3,000 liters of illicit fuel, 4.51 million contraband cigarettes, 123 grams of heroin, 212 tablets of ecstasy, 180 grams of ICE, 1,104 tablets of midazolam, and 70 grams of ketamine. A follow up operation yielded the arrest of a further 27 individuals implicated in an optical disc piracy manufacturing operation. In that raid, 53 CD-R burners, 10,000 pirated discs, and 90,000 pornographic discs were seized.

<sup>9</sup> Motion Picture Association, *Optical Disc Piracy v. Illegal Drug Trafficking*, October 2005, p. 2. About the same time, MPA released another new study, *Organized Crime & Motion Picture Piracy*, from which some of the examples in the text are taken.

<sup>10</sup> *Id.*, at 3

- In **China**, the head of a criminal syndicate was sentenced in March 2004 to 7 years in prison for the sale of more than 6 million pirate audio and video products. Chinese prosecutors estimated that this syndicate had been responsible for one third of all pirate music CDs seized over several years. More than 10 million discs had been imported, mainly from Hong Kong, from 2001-March 2003.
- In **Australia**, by the middle of 2004 the number of stalls selling pirated film DVDs at Melbourne's Caribbean Gardens Markets had increased fivefold (to more than 135 stalls); the price of pirated DVDs had substantially dropped (from AU\$15-\$20 per disc to AU\$10); traders not affiliated with two main organized criminal gangs were forced to pay protection money or were simply muscled out of the market; and a well-organized lookout system had been put in place. In August 2004, the Caribbean Market hosted the largest concentration of DVD sellers under one roof in the Asia-Pacific region. A battle (at times armed) for control between two criminal gangs resulted in physical intimidation of investigators from the motion picture industry's Australian anti-piracy program.
- In 2004, enforcement authorities in the United Kingdom uncovered the involvement of Triad and Snakehead gangs in China in forcing illegal immigrants from China to sell pirate DVDs on the street to pay for their illegal passage to the UK.
- An April 2004 Interpol report on the links between terrorism and IPR crimes noted a 2000 case of a CD plant in **Russia** run by Chechens who remitted funds to the Chechen rebels. The average monthly earnings of the organization were estimated at US\$500,000-\$700,000. During the raid on suspects' houses, a number of explosives and arms were seized.
- In 2004, turf wars between syndicates operating out of **Russia** and Bulgarian organized crime gangs were numerous, particularly over control of piracy at some of **Bulgaria's** most blatant pirate hotspots. Bulgaria's anti-organized crime agency has acknowledged the involvement of these syndicates in the pirate distribution business.
- A press report has noted that a new OD factory had been set up in **Burma** close to the border with northern Thailand near Chiang Rai. The plant produces pirate CDs, VCDs, and DVDs and is owned by the notorious drug lord Wei Hseuh-kang. The production lines and blank discs reportedly were imported from China. Annual profit from this plant was estimated at US\$6.5 million. Pirates in the border town in Thailand near the plant sold pirate product from the plant and DVDs of the newest U.S. films imported from China.
- In November 2004, police in Bangkok, **Thailand** raided a night market at King Rama I Bridge and were attacked by 30 piracy gang members. Some of the officers were injured.
- In August 2004, the owner of a pirate video shop in a popular Bangkok, **Thailand** shopping mall was shot dead in the mall by an assailant on a motorbike. Police suspect the murder was ordered by the criminal gang that controls the piracy business in this and other malls. Police believe the murdered man was trying to break the protection racket that insulated the shops from possible police raids.



- In late 2004, **Hong Kong** Customs smashed an extensive OD piracy syndicate allegedly run by a woman dubbed the “queen of piracy” and her sons. Ten locations were raided and close to US\$200,000 worth of pirate copies and equipment were seized. It was estimated that this ring generated more than US\$1.5 million per year over a four year period. In this same period, another sweep led to the arrest of 284 organized crime gang members, with more than US\$330,000 worth of pirate product seized. The raids were aimed at the revenue sources of Triad societies in West Kowloon. The sweep involved over 500 law enforcement officials.
- Also in 2004, **Hong Kong** Customs ran “Operation Sunrise,” which disrupted a criminal syndicate run by the Sun Yee On Triad Society, yielding the arrests of 30 people, including a 12-year-old girl. Police raided 435 locations and inspected 1,921 entertainment premises, making arrests at 18 gambling establishments, 9 pirate optical disc shops, 23 brothels and 6 drug dens. Seizures included 1,700 ecstasy tablets, 200 grams of ketamine, weapons, 160,000 pornographic or pirate optical discs, 9,500 liters of unlicensed gasoline and about 3.9 million cigarettes. The operation followed another successful anti-organized crime operation on June 25, 2004, when Hong Kong police and other agencies conducted a three-day operation code-named “Windpipe” that resulted in the arrest of 499 people and the seizure of over 12,200 copyright-infringing items including pirate optical discs.
- In August 2004 in **Malaysia**, it was reported that one of the suspected members of a Malaysian criminal syndicate distributing pirate ODs crashed his van into several vehicles while attempting to escape MDTCA officers. The suspect was apparently unloading 250,000 discs of local and international musical repertoire worth US\$400,000.
- In January 2005 in **Malaysia**, incoming MDTCA Minister Datuk Shafie Apdal reiterated the importance of arming IPR enforcement officers after gun battles erupted during several VCD raids: “... we asked for the guns as protection for our people who are constantly at risk while dealing with these pirate VCD traders. There is a criminal element among some of these traders and our officers have to be protected.”
- In **Lithuania**, distribution of pirated entertainment software product (especially manufactured discs produced in Russia) is controlled by Russian organized crime syndicates that are now affixing their own logos and brand names to their illicit products. These pirated materials are then stored in Lithuania for distribution locally and throughout Eastern and Central Europe.
- CDs carrying extremist propaganda found in **Argentina, Mauritius, Pakistan** and **Paraguay** have been demonstrated to come from the same source as much of the illegally produced music in these regions. Other extremist or terrorist groups, for example in **Northern Ireland**, are partly funded by music piracy.
- In **Paraguay**, in April 2004, a key organized crime leader, Antonio Gonzalez Neira, was jailed for seven and a half years. The conviction was for the illegal import of blank CD-Rs suspected of being used in piracy. Neira was one of the most powerful pirates in Paraguay, and his family has a long and documented history of assisting Chinese and Taiwanese organizations involved in smuggling in the country.

- In **Brazil**, the notorious piracy kingpin Law Kim Chong was arrested in June 2004 for attempting to bribe the Chairman of Brazil's Congressional Anti-Piracy Committee. As part of the follow-up to this arrest, authorities raided one warehouse owned by Chong at which over 7.5 million blank CD-Rs and 3.5 million blank DVD-Rs were seized. The bribe was alleged to be between US\$1 million and \$2.3 million. Chong owned numerous shopping centers and supplied product from China to over 10,000 points of sale throughout the country. Chong is now in jail and the investigation continues.
- In May 2005 in **Italy**, the historical involvement in music piracy of the Camorra mafia gang in Italy was confirmed by the Naples Deputy Attorney General Franco Roberti, who said that 213 members of the gang had been sentenced since 2000. In late 2004, a police officer in Naples had been shot and killed during a raid with the killer believed to be linked to the Camorra gang.
- In early 2004, a series of 13 raids by the National Police in Madrid, **Spain** led to the arrest of 40 persons involved in the mass duplication of CD-Rs. The suspects, many of whom were illegal immigrants from China and who had been brought to Spain by the other members of a criminal gang, were found in possession of 346 high-speed burners, 168,400 blank CD-Rs, 24,450 recorded CDs, 39,000 DVDs, 10,500 VCDs containing movies, 515,000 jewel cases, 210,000 inserts and €48,000 (US\$57,200) in cash. The gang used a number of computer shops and restaurants to launder the money generated by the pirate product.
- In **Germany** in August 2004, law enforcement authorities seized a major "release group" server (named "dRAGON") at a university in Frankfurt. The server was being used by three of the largest release groups believed by the authorities to be responsible for up to 80% of online releases of German-language versions of movies. (A prior operation in March 2004 resulted in closing down 19 such servers) The server contained approximately 180 copies of newly-released films and about 20 interactive games. It was being used as a so-called mux-server (combining picture material with German soundtracks) by three of the largest and recently reorganized release groups, FLT (Flatline), TOE (Titans of Entertainment) and BBP (Block Buster Productions).
- Interpol has reported that in **Lebanon**, in February 2000, an individual was arrested for piracy and suspected of fundraising for Hezbollah. The individual sold pirated music CDs, Sega, Sony and Nintendo game discs to fund a Hezbollah-related organization. Among the discs recovered were discs containing images and short films of terrorist attacks and interviews with suicide bombers. The discs were allegedly used as propaganda to generate funds for Hezbollah.
- One individual, who has been identified by the U.S. Treasury Department as a "Specifically Designated Global Terrorist," is understood to be a principal financier of one or two of **Pakistan's** largest optical media plants.

The copyright industries alone cannot fight such organized criminal activity. Company representatives and counsel have in some countries already experienced threats on their lives or physical intimidation when their investigations began to make progress. In some cases, this has prevented any enforcement activity by the private sector. We look to the U.S. government for additional leadership, both here and in the appropriate bilateral and multilateral fora, to place the issue of effective copyright piracy enforcement on the agenda of agencies dealing with

organized economic crime – generally, cybercrime, fraud, extortion, white-collar crime, drug enforcement, money laundering, and border and customs control. The U.S. government should encourage countries with existing anti-organized crime laws and investigative procedures to bring them to bear against syndicate operations involved in piracy. Where such laws and procedures are not in place, the U.S. government should encourage governments to adopt them and to include, among predicate offenses, intellectual property right violations.

### **End-User Piracy of Business Software and Other Copyrighted Materials**

The unauthorized use and copying of software by businesses result in tremendous losses to the U.S. and global economies. The great majority of the billions of dollars lost to U.S. software companies from business software piracy in 2004 was attributable to this end-user software piracy. To safeguard the marketplace for legitimate software, government must have in place both substantive standards of protection and adequate enforcement mechanisms.

For the business software industry, it is particularly critical, given the growing use of electronic networks to make software available commercially to corporate and other end users, to ensure that the reproduction right covers both temporary as well as permanent reproductions. It is likely that very soon, virtually all consumers will engage in the full exploitation of software they license and receive over a network without ever making a permanent copy on their hard drive. They will simply access the software, in accordance with mutually agreed license terms, then load it into the random access memory (RAM) of their workstation or server, use the software and, when finished, close the program or shut down the computer—all without the software ever being permanently stored on the computer's or server's hard drive. Failure to make clear that such temporary reproductions are covered by the exclusive reproduction right is a violation of the Berne Convention, the WTO/TRIPS Agreement and the WIPO Copyright Treaty. Great progress has been made globally on this critical issue, and IIPA calls upon the U.S. government to continue to seek legislative changes and clarifications on this point. As of today, at least 90 countries either provide express protection for temporary copies, or do so by interpretation of their laws, or have committed to provide such protection.

Enforcement is a critical part of reducing global piracy rates for business software, which exceed 50% in the developing world. The biggest challenge to the business software industry is to persuade governments to take effective enforcement action against enterprises that use unlicensed software in their businesses. To effectively enforce against corporate end-user piracy, countries must provide an effective civil system of enforcement, provisional remedies to preserve evidence, and deterrent criminal penalties for piracy. More specifically, it is critical that countries provide *ex parte* search orders in an expeditious manner, deterrent civil damages and criminalization of corporate end-user piracy as required by Article 61 of TRIPS. Industry, along with USTR, has raised the need for strong procedural and remedial enforcement measures around the world. Although some countries have made attempts to improve enforcement through special enforcement periods and action plans, most of these proposals for action have not been sustained over time or resulted in deterrent criminal fines and jail terms. Additionally, most countries still do not criminalize corporate end-user piracy or provide civil *ex parte* measures—even though their TRIPS obligations require both.

End-user piracy is of course not limited to software but, in part because of the Internet, now affects all copyright sectors. Hard goods piracy using the Internet to advertise and sell pirate product, and unauthorized downloading of music, movies, videogames and books from websites as well as through peer-to-peer file swapping services have all skyrocketed.

Unauthorized digital streaming, where bandwidth permits, is also growing. A great deal of this activity is being conducted through government-owned Internet Service Providers and from servers owned and operated by governments, schools and universities. Likewise, in government, school and university facilities photocopy machines are routinely used for commercial-scale book piracy. Where the government is directly involved or directly responsible for the facilities and implements used, policies and decrees must be promulgated and strictly enforced to ensure that these facilities are not used for infringing conduct.

Where the activity is confined to the private sector and to private individuals, mechanisms for strict enforcement against pirate websites, P2P services and against individual uploaders and downloaders must be put into place and deterrent penalties imposed. Where lacking, legislation must be passed clarifying secondary liability as well as infringement liability for unauthorized uploading and downloading. Statutory notice and takedown regimes, with narrowly crafted safe harbors for ISPs, should be adopted, which allow for expedited action (with minimal and reasonable notification procedures) to block access to infringing material or take down infringing websites or FTP sites. Piracy directly by individual or enterprise or government end-users is on the increase; the appropriate and effective enforcement tools must be put into place immediately.

### **Piracy of Books and Journals**

The book and journal publishing industry faces not only the same challenges encountered by other entertainment and high-tech industries (digital and online piracy), but must contend with other methods of infringement as well. This piracy comes primarily in two forms—commercial photocopying and print piracy.

Unauthorized commercial-scale photocopying of books and journals is responsible for the industry's biggest losses in most territories worldwide. This photocopying takes place in a variety of venues—commercial photocopy shops located on the perimeters of university campuses and in popular shopping malls; on-campus copy facilities located in academic buildings, libraries and student unions; and wholly illicit operations contained in residential areas or other underground establishments. Publishers also suffer from unauthorized photocopying for commercial research purposes in both for-profit and non-profit institutions (often accompanied by failure to compensate reprographic rights organizations ("RROs") in countries where they exist to collect photocopying royalties). These operations are highly organized and networked, and technology advances are making the problem worse. Digitally scanned covers, for instance, allow pirates to conceal text that is often of poor quality, misleading consumers into believing they are purchasing a legitimate product, and electronic files containing book text are now routinely seized as part of enforcement actions against copyshops.

In addition, the U.S. publishing industry continues to lose hundreds of millions of dollars per year from unauthorized printing of entire books, including academic textbooks, professional reference books and trade books. These printers come in two varieties. Often, they are licensed printers or distributors who are engaged in offset printing beyond the scope of a valid license granted by the publisher. Others are wholly illegal pirate operations that have no license from the copyright owner at all. Print piracy is especially prevalent in Egypt, Pakistan, India and China, where printing is to some extent still less expensive for pirates than photocopying. Sophisticated printing technologies result in extremely high-quality pirate editions of books, making it difficult for users to distinguish between legitimate and pirate products.

Publishers continue to suffer from unauthorized translations of books and journals of all kinds and genres, as well as counterfeiting in the form of “bogus” books or trademark misuse. Plagiarism also abounds, most often in the form of compilations of English language material or directly translated material marketed as a local professor’s own product.

These types of piracy call for the same kind of aggressive enforcement techniques discussed throughout this submission, accompanied by the political will and awareness of governments to recognize the serious damage done to economies, culture and the educational environment by letting such infringements persist. IIPA urges the U.S. government to ensure that such acts of piracy are fully covered in all bilateral, plurilateral and multilateral engagements.

### **Using FTAs to Improve Global Standards of Copyright Protection and Enforcement**

The negotiation of bilateral and regional free trade agreements (FTAs) now occupies a place of overriding importance to the copyright industries and to U.S. trade policy. These negotiations offer an important opportunity to persuade our trading partners to modernize their copyright law regimes so they can maximize their participation in the new e-commerce environment, and to improve enforcement procedures. Since copyright issues are not being addressed in the Doha Round of multilateral negotiations under the World Trade Organization, the FTA process has become by far the most fruitful avenue to address the law reform challenges brought on by developments in technology.

At the time of this letter, FTAs with Singapore, Chile, Australia, Jordan and Morocco have entered into force. FTAs with Central America, the Dominican Republic, Bahrain, Oman and Peru have been concluded. Negotiations with Panama, the United Arab Emirates and the other Andean Pact countries of Colombia and Ecuador are slated to end soon. Negotiations with Thailand are ongoing and a new FTA with South Korea was just announced. An FTA negotiation with Malaysia may be announced soon. IIPA trusts and expects that the valuable precedents established in these earlier agreements will be carried forward to the ongoing FTA negotiations, including with the South African Customs Union (SACU), and with any more FTA negotiations opened in the future. In all these negotiations we have achieved, and will continue to seek, full implementation of the WIPO Internet Treaties; stronger substantive protection in other areas, including the extension of the term of copyright protection; and detailed and effective enforcement obligations that make clear the requirement to enforce copyright in all areas, including on the Internet, with expeditious and deterrent civil and criminal remedies. We again commend the Administration and Ambassador Portman for moving swiftly and aggressively to secure new high levels of protection and enforcement that will be critical to the development of e-commerce in the coming years. Finally, while the negotiations have been stalled for some time, it is possible to envision in the future an unprecedented Free Trade Agreement of the Americas in which the standards of copyright protection and enforcement will reflect the new global framework of protection established in the FTAs negotiated to date. IIPA looks forward to working closely with U.S. negotiators to achieve these goals in the FTA and FTAA fora.

## D. IIPA RECOMMENDATIONS FOR THE 2006 SPECIAL 301 LISTS

This year IIPA has analyzed the copyright law and enforcement problems in 46 countries/territories and has recommended them for placement in the categories of Priority Foreign Country, Priority Watch List, Watch List, and Section 306 Monitoring. We also mention specific issues in 22 additional countries/territories that deserve increased U.S. government attention.

IIPA recommends that USTR designate Russia as a Priority Foreign Country in 2006 and that Russia's eligibility for GSP benefits be immediately suspended. Russia's copyright piracy problem remains one of the most serious of any country in the world. Piracy rates for most sectors are estimated at around 70%-80% in 2005 and piracy losses again exceed \$1.7 billion.<sup>11</sup> Despite the repeated efforts of industry and the U.S. government to convince the Russian government to provide meaningful and deterrent enforcement of its copyright and other laws against OD factories as well as all other types of piracy—including some of the most open and notorious websites selling unauthorized materials such as [www.allofmp3.com](http://www.allofmp3.com)—little progress has been made over the years. Meanwhile, piracy continues unabated in the domestic market and pirate exports continue to flood both Eastern and Western Europe.

IIPA recommends that the remaining countries/territories be placed on, or maintained on, the Priority Watch List or the Watch List, where they are subject to ongoing bilateral scrutiny.

IIPA recommends that 16 countries be placed on the Priority Watch List: Argentina, Bulgaria, Chile, Colombia, Costa Rica, the Dominican Republic, Egypt, India, Indonesia, Israel, Lebanon, the People's Republic of China, the Philippines, Thailand, Turkey, Ukraine and Venezuela. IIPA also recommends that 28 countries/territories be designated or kept on the Watch List. We also recommend that out-of-cycle reviews be taken in seven countries/territories: Brazil, Canada, Hong Kong, Malaysia, Pakistan, Saudi Arabia, and South Korea.

With respect to the People's Republic of China, IIPA recommends that USTR maintain China on the Priority Watch List. Industry and USTR continue to look into the prospects of a WTO dispute settlement case against China. China has failed to "significantly reduce piracy rates," as promised by China's Vice Premier Wu Yi at the Joint Commission on Commerce and Trade (JCCT) meetings in April 2004. Piracy rates still hover around 90%, where they have been for years.

IIPA commends Paraguay for the efforts that it has made over the course of the past two years, and recommends that USTR continue to monitor developments in Paraguay under Section 306 of the Trade Act of 1974.

Appendix C contains a survey of a total of 68 countries or territories. The countries/territories appear by recommended category and in alphabetical order within each category.

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<sup>11</sup> The methodology used by IIPA member associations to calculate these estimates is described in IIPA's 2006 Special 301 submission, at [www.iipa.com/pdf/2006spec301methodology.pdf](http://www.iipa.com/pdf/2006spec301methodology.pdf). For example, ESA's reported dollar figures reflect the value of pirate product present in the marketplace as distinguished from definitive industry "losses."

PRIORITY FOREIGN COUNTRY	PRIORITY WATCH LIST	WATCH LIST	SECTION 306 MONITORING	OTHER COUNTRIES DESERVING SPECIAL MENTION
Russia	Argentina Chile Colombia Costa Rica Dominican Republic Egypt India Indonesia Israel Lebanon PRC Philippines Thailand Turkey Ukraine Venezuela	Bahamas Belarus Bolivia Brazil (OCR) Bulgaria Canada (OCR) Ecuador Greece Hungary Italy Kazakhstan Kuwait Latvia Lithuania Malaysia (OCR) Mexico Pakistan (OCR) Peru Poland Romania Saudi Arabia (OCR) Serbia and Montenegro South Korea (OCR) Taiwan Tajikistan Turkmenistan Uzbekistan Vietnam	Paraguay	Azerbaijan Bangladesh Bosnia and Herzegovina Brunei Burma Cambodia Cyprus Czech Republic Estonia Hong Kong (OCR) Japan Kenya Laos Morocco Netherlands New Zealand Nigeria Panama Singapore South Africa Spain Sweden Switzerland
<b>1</b>	<b>16</b>	<b>28</b>	<b>1</b>	<b>22</b>

Appendix D provides a history of countries/territories appearing on IIPA and USTR lists since 1989, a year after the Special 301 legislation became effective. Sixteen of these countries/territories have appeared on a Special 301 list each year since 1989, and are recommended by IIPA to appear there again. A 1994 amendment to Section 182 of the Trade Act, dealing with identification of “priority foreign countries,” provides that the U.S. Trade Representative must take into account “the history of intellectual property laws and practices in the foreign country, whether the country has been identified as a priority foreign country previously, and U.S. efforts to obtain adequate and effective intellectual property protection in that country.”<sup>12</sup> Under this criterion, these 16 countries/territories named by IIPA are particularly vulnerable, having failed to correct their piracy and/or market access problems during the 17 years that Special 301 has been in existence.

**Ongoing GSP IPR Reviews:** IIPA also calls attention to ongoing intellectual property rights reviews under the Generalized System of Preferences (GSP) trade program. IIPA has been a strong supporter of the GSP program, and over the years has filed numerous petitions requesting the U.S. Government to initiate GSP IPR reviews of copyright law and enforcement practices in targeted countries. As of February 13, 2006, the U.S. government is continuing GSP IPR investigations on the copyright law and enforcement practices in four countries in

<sup>12</sup> Uruguay Round Agreements Act Statement of Administrative Action, *reprinted in* H.R. Doc. No. 103-316, vol. I, at 362 (1994).

which IIPA was the original petitioner: Russia, Lebanon, Kazakhstan and Uzbekistan. In January 2006, USTR terminated the GSP investigations of Ukraine, Brazil and Pakistan: in all three cases IIPA was the original petitioner. The GSP program is due to expire at the end of 2006, unless Congress reauthorizes its funding. IIPA strongly supports reauthorization.

Since 1999, IIPA (and in one case, a coalition of 6 of 7 IIPA members) has filed 18 GSP IPR petitions with USTR, requesting the initiation of IPR investigations against the following countries: Poland, Peru, Lebanon, Dominican Republic, Ukraine, Moldova, Uzbekistan, Armenia, Kazakhstan, Belarus, the Kyrgyz Republic, Brazil, Russia, Guatemala, Costa Rica, Uruguay, Thailand, and Pakistan. Of these 18 petitions, USTR initiated reviews in 10 countries: the Dominican Republic, Ukraine, Moldova, Uzbekistan, Armenia, Kazakhstan, Brazil, Russia, Lebanon, and Pakistan. IIPA withdrew its request to initiate reviews in three cases (Peru, Uruguay and Thailand). Of these 10 reviews, so far USTR has completed its investigations and terminated its reviews in 7 cases (Armenia, Moldova, Dominican Republic, Ukraine, Brazil, and Pakistan, plus Turkey—a case which IIPA petitioned for in 1993 and was closed in 2001).

## E. COUNTRIES DESERVING SPECIAL MENTION IN 2006

In addition to the 46 countries/territories for which IIPA has provided comprehensive country reports, IIPA also highlights issues in 22 countries which deserve special attention this year but which are not recommended for placement on the Special 301 Lists. These countries and the problems encountered in them can be found at the end of Appendix C in a Section entitled “Countries Deserving of Special Mention.” These countries/territories are: Azerbaijan, Bangladesh, Bosnia and Herzegovina, Brunei, Burma, Cambodia, Cyprus, Czech Republic, Estonia, Hong Kong, Japan, Kenya, Laos, Morocco, New Zealand, Nigeria, Panama, Singapore, South Africa, Spain, Sweden and Switzerland.

## F. ESTIMATED LOSSES DUE TO PIRACY

As a result of deficiencies in the copyright regimes of the 68 countries/territories highlighted in this submission, the U.S. copyright-based industries suffered estimated trade losses due to piracy in these 68 countries/territories of over \$15.8 billion in 2005.<sup>13</sup> On a global basis (that is, in all countries/territories including the U.S.), IIPA conservatively estimates that total losses due to piracy were \$30-35 billion in 2005, not counting significant losses due to Internet piracy, for which meaningful estimates are not yet available.

Appendix A presents a chart which quantifies losses for the five copyright-based industry sectors—the entertainment software, business software, motion picture, sound recording and music publishing, and book publishing industries—for 2004 and 2005. In most surveys, IIPA has described the piracy levels in each of the sectors in each of these countries/territories (where available). This should prove helpful in identifying trends and in determining whether enforcement efforts have actually been successful in reducing piracy levels in the particular country.

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<sup>13</sup> The methodology used by IIPA member associations to calculate these estimates is described in IIPA's 2006 Special 301 submission, at [www.iipa.com/pdf/2006spec301methodology.pdf](http://www.iipa.com/pdf/2006spec301methodology.pdf).



ESTIMATED TRADE LOSSES DUE TO COPYRIGHT PIRACY IN 68 SELECTED COUNTRIES IN 2005 (in millions of U.S. dollars)	
Industry	Estimated Losses
Motion Pictures <sup>14</sup>	1,976.0
Records & Music	2,563.4
Business Software	8,028.1
Entertainment Software <sup>15</sup>	2,652.8
Books	606.5
<b>Total</b>	<b>15,826.8<sup>16</sup></b>

Appendix B summarizes the methodology used by the IIPA member associations to calculate these estimates. They represent a crushing burden on the U.S. economy, on U.S. job growth, and on world trade generally. They result from the blatant theft of one of this country's most valuable trade assets—its cultural and technological creativity. Appendix B also describes how IIPA and its members estimate global OD production capacity, including factories, types of OD production lines, and capacity both for production of content and blank media (CD-Rs and DVD-Rs). The use of recordable media has now come close to becoming the pirate's tool of choice, particularly as enforcement pressure on factory production has increased.

## G. CONCLUSION

Special 301 remains a cornerstone of U.S. intellectual property and trade policy. We urge the Administration to use Special 301, and the tools available under the GSP, CBI, ATPA, CBTPA, and AGOA programs, and to consider IIPA's proposals to amplify attention to ineffective and non-deterrent enforcement—to encourage the countries/territories identified in our recommendations this year to make the political commitments, followed by the necessary actions, to bring their enforcement (and where necessary their copyright) regimes up to international standards. The U.S. government should also use the WTO dispute settlement

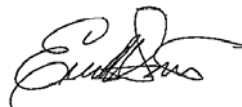
<sup>14</sup> MPAA's trade losses and piracy levels for 2005 are available for a limited number of countries and are based on a methodology that analyzes physical or "hard" goods and Internet piracy. For a description of the new methodology, please see Appendix B of this report. As loss numbers and piracy levels become available for additional countries at a later time, they will be posted on the IIPA website, <http://www.iipa.com>.

<sup>15</sup> ESA's reported dollar figures reflect the value of pirate product present in the marketplace as distinguished from definitive industry "losses." The methodology used by the ESA is further described in Appendix B of this report.

<sup>16</sup> For many countries, the "total" loss figure does not include losses for one or more industry sectors where figures are unavailable (NA). Consequently, the totals for these countries are even more conservative.

machinery to ensure that countries/territories bring their substantive and their enforcement regimes into compliance with their international obligations under TRIPS. The dispute settlement mechanisms in FTAs should also be used, where necessary, with those trading partners. We look forward to our continued work with USTR and other U.S. agencies to bring about major improvements in copyright protection and enforcement worldwide.

Respectfully submitted,



Eric H. Smith  
President  
International Intellectual Property Alliance



## ANEXO 6

**MPA Study: Brighter picture for movie industry. Hy Hollinger. The Hollywood Reporter. June 15, 2007.**



Which Sony VAIO® accessory would you choose?

- Leather carrying case  
 Bluetooth mouse  
 Large capacity battery

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MPA study: Brighter picture for movie industry

By Hy Hollinger

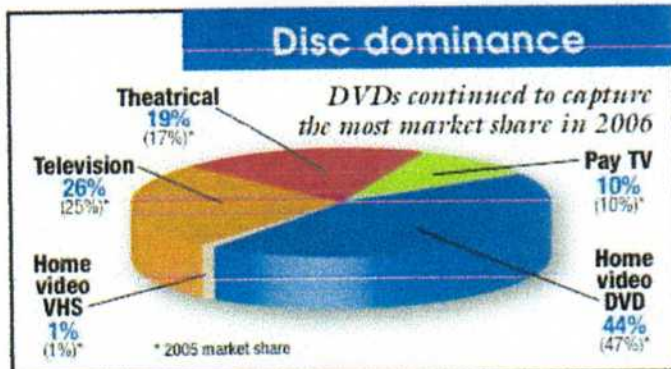
June 15, 2007

The motion picture industry is back on course.

After a disappointing 2005, the six major companies have received official confirmation from the MPA that their all-media revenue from filmed entertainment -- comprising money from home video, television, theatrical and pay TV -- expanded by 8% in 2006 to reach \$42.6 billion.

The MPA confidential report sent to industry executives discloses that all-media sales in the U.S. grew by 10%, while the international market (top 25 markets) showed a 5% advance. Of the \$42.6 billion, the U.S. contributed \$24.3 billion and international \$18.3 billion.

In 2005, all-media revenue tumbled 8.2% from \$42.9 billion 2004, with the U.S. segment off 10% and international down 5.8%.



More good news for executive eyes indicated "positive growth" for all segments of the business last year, with revenue from worldwide theatrical exposure showing the biggest year-over-year hike at 21%.

The annual revenue summary covers the top 25 international markets, ranging from the U.K. at No. 1 to Ireland at No. 25. These markets, which comprise 39% of all worldwide all-media revenue, grew 4% in 2006, according to the MPA. Canada, covered as a foreign market by

the MPA as opposed to studio positioning as domestic, showed the biggest international growth in terms of dollars in 2006 by adding \$341 million, a jump of 23%.

**100TH EPISODE  
FREAKIN SWEET!**

After Dark hits 'Nail' on head  
 Ebert to appear at Gotham Awards  
 '30 Days' money back guarantee  
 Fellini script 'Viaggio' on new voyage  
 Coppola chides Pacino, De Niro, Nicholson  
 Allen's Barcelona pic has a name or two  
 'Birds' redo calls Campbell as director  
 Benioff to pen Unf's Cobain biopic  
 Roach has plan for Madison Avenue 'Strategy'  
 Sci-Tech Oscar contenders demo tricks

More film news

Senators to Martin: Slow down  
 Stewart re-ups with Comedy Central  
 ABC prevails Wed. with 'Daisies,' 'Practice'  
 Claman makes debut on FBC  
 In 'Theory' and 'Practice': Both get full season  
 DeGeneres: Doggie dilemma 'out of hand'  
 Fox sets premiere date, brand for 'Sarah Connor'  
 Germany mulls quota for homegrown TV  
 Sci Fi plots 'Revolution'  
 New 'Daily Show' Web site to house archives

More television news

Senators to Martin: Slow down  
 Screen Digest buys Adams Media Research  
 Coalition issues video copyright guidelines  
 Claman makes debut on FBC  
 Coalition issues video copyright guidelines

Advancing at a sizzling pace since getting out of the communist yoke, Russia moved up two spots to become the 13th-ranked purchaser of U.S. filmed entertainment, showing a 50% hike year-over-year. All-media revenue from Russia amounted to \$88.7 million in 2002, climbing to \$124.3 million in 2003, \$160.4 million in 2004, \$196.6 million in 2005 and \$295.7 million last year.

Theatrical revenue in Europe in 2006 matched 2004's record year of \$2.1 billion, with significant gains in three smaller markets -- Italy (up 25%), Russia (67%) and Sweden (38%). The Asia Pacific region, Latin America and the Middle East and Africa also enjoyed double-digit growth for theatrical releases.

As part of the all-media mix, home video again recorded the biggest market share but continued to show signs of slippage as it fell three percentage points to 45%. The demise of the VHS format appears to be getting closer; the videocassette represented only 1% of the overall all-media market share in 2006, dropping 86% in Europe against DVD's slide of 5% in the region.

Home video lost ground in Europe for a second straight year, with drops in the U.K., Germany, France, Spain and Italy most noticeable, while the smaller markets of Belgium, Norway and Denmark displayed sizable increases. Home video sales also declined in the Asia Pacific region but showed an "upward trend" in Latin America and the Middle East and Africa, the MPA said.

## Progressing

### Top 15 int'l markets in 2006

Country	2006	% change	2005	2004
U.K.	\$3,446	-1%	\$3,463	\$3,751
Canada	1,841	+23	1,500	1,473
Germany	1,709	-5	1,792	1,726
France	1,667	-2	1,697	1,820
Japan	1,523	-13	1,740	2,088
Spain	1,069	+10	972	1,183
Australia	956	+2	935	963
Italy	931	+2	915	951
Brazil	491	+14	431	390
Mexico	387	+6	365	377
Netherlands	356	-2	364	357
Sweden	311	+14	272	310
Russia	296	+50	197	160
Belgium	242	+24	195	244
Norway	174	+21	144	148

\$ in millions

Television revenue from Europe rose 18% in 2006, marked by the U.K. pickup of four market-share points. Asia Pacific showed a 5% increment as South Korea's 59% TV revenue boost stole market share from the region's two top buyers, Japan and Australia. Latin America, ending a four-year decline in television buys, grew by 4%. The Middle East and Africa, led by South Africa's 73% increase to \$31 million, showed "strong growth" in program acquisitions.

Revenue from pay TV in Europe fell 7% in 2006 but remained above 2005 levels, with an 8% loss in traditional pay TV offset by a slight increase in pay-per-view, the MPA reported. Overall revenue from the Asia Pacific region dipped for a second year in a row, falling 7% as Japan's 16% loss contributed to the region's pay TV decline. Latin American rebounded a bit thanks to gains in the region's two largest markets, Brazil (18%) and Mexico (2%). The Middle East and Africa continued to move ahead in welcoming pay TV, moving up 13% as South Africa led the charge with a 23% hike.

The survey covers all-media revenue recorded by its six member companies -- the Walt Disney Co., Paramount Pictures Corp., Sony Pictures Entertainment, 20th Century Fox Film Corp., Universal City Studios and Warner Bros. Entertainment.

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