



The Beijing Treaty - recording industry perspective

WIPO regional meeting on the Beijing and Marrakesh Treaties

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IFPI

IFPI – what we do

- IFPI (www.ifpi.org) represents the recording industry worldwide
- 57 national groups, 1,300 members (three major international companies and hundreds of independent labels) in over 60 countries.
- 3 regional offices, 1 representative office, HQ in London, UK
- IFPI promotes the value of recorded music and seeks to create a better environment for our members to do business
- Priorities:
 - Securing better rights worldwide
 - Anti-piracy actions for effective legal protection worldwide
 - Industry statistics on music consumption and digital developments
 - Collective licensing and work with over 70 national recording industry Music Licensing Companies (MLCs), developing and improving industry collective licensing capabilities

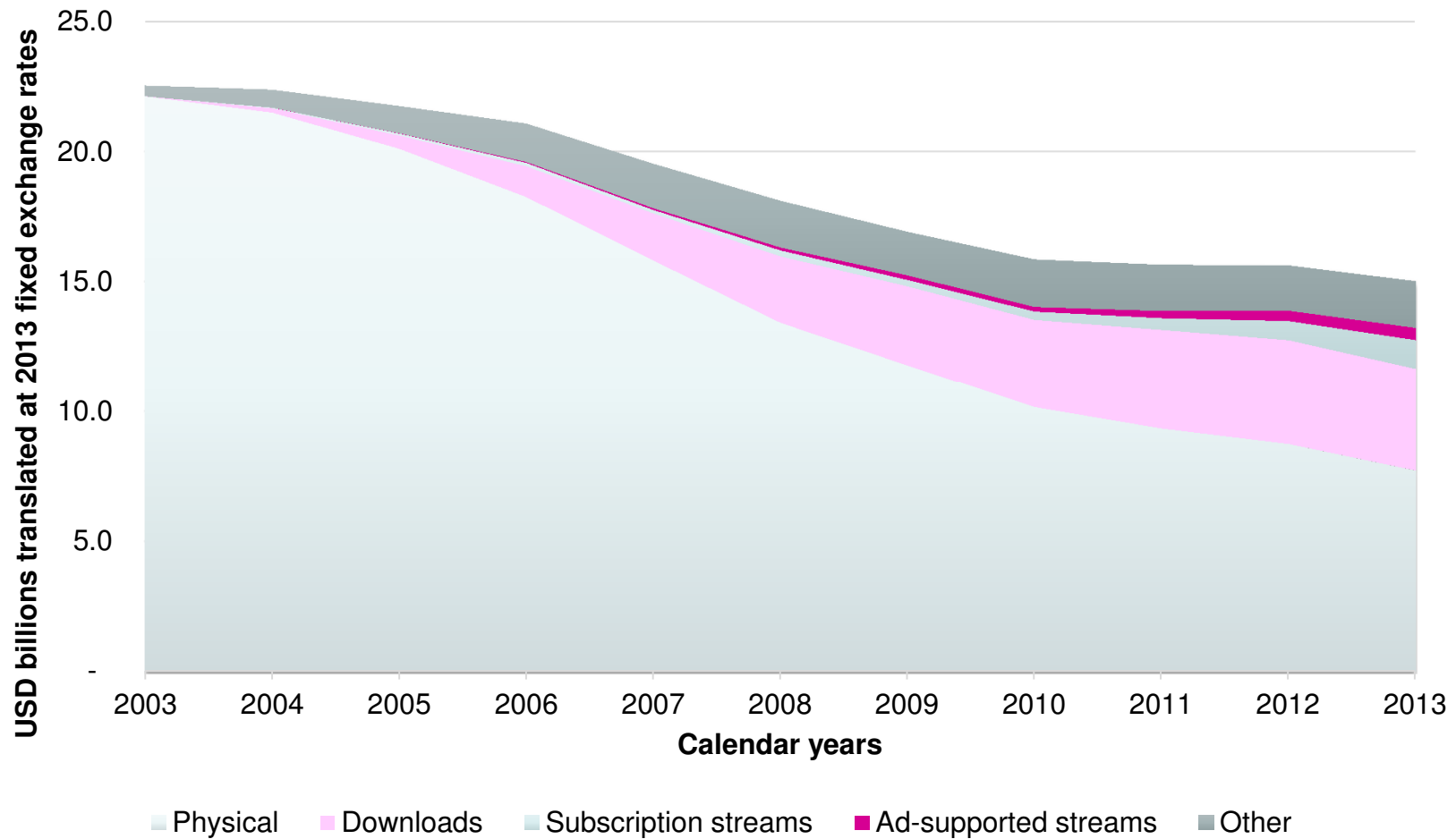
Why the WIPO Treaties matter

- The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), and the rights and protections contained therein, constitute the basis for today's global digital market place.
- Without the necessary legal and commercial certainty and international protection, local rightholders are deprived of the economic incentives to invest in the creation of new music, books, films, games, etc.
- Copyright Industries are among the most dynamic industry sectors.
- The Copyright Industries contribute significantly to the economy:
 - They are powerful GDP contributors
 - They are an important source of income and export earnings
 - They drive job creation

Why the implementation of the WIPO Treaties matters

- ***2014 WIPO study on the contribution of copyright industries***
 - Contribution to GDP on average 5.18 %.
 - Contribution to national employment on average 5.32%.
 - Strong relationship between GDP contribution of copyright industries and Global Competitiveness Index.

Recording industry sales mix



Source: IFPI National Groups. Translated to USD at fixed exchange rates for 2013.

Digital services

EUROPE

ALBANIA

ANDORRA

ARMENIA

AUSTRIA

AZERBAIJAN

BELARUS

BELGIUM

BOSNIA AND HERZEGOVINA

BULGARIA

CROATIA

CYPRUS

CZECH REPUBLIC

DENMARK

ESTONIA

FINLAND

FRANCE

GEORGIA

GERMANY

GREECE

HUNGARY

ICELAND

IRELAND

ITALY

KAZAKHSTAN

KYRGYZSTAN

LATVIA

LIECHTENSTEIN

LITHUANIA

LUXEMBOURG

MACEDONIA

MALTA

MOLDOVA

MONACO

MONTENEGRO

NETHERLANDS

NORWAY

POLAND

PORTUGAL

ROMANIA

RUSSIA

SAN MARINO

SERBIA

SLOVAK REPUBLIC

SLOVENIA

SPAIN

SWEDEN

SWITZERLAND

TAJIKISTAN

TURKEY

TURKMENISTAN

UKRAINE

UNITED KINGDOM

UZBEKISTAN

Market overview

- In 2004, when the industry was starting to license digital services on a large scale, the industry was worth €16.8 billion.
- In 2014, the industry has licensed over 400 services, that offer consumers access to over 43 million tracks when ever, where ever, and with a variety of online and mobile devices.
- BUT, despite the wide availability of licensed digital music services and the unprecedented consumption of recorded music, the music industry revenues dropped [€ 5] bn between 2004 and 2014, from [€ 16.8] bn to [€ 11.2] bn.

The industry continues to invest in artists

- Artists continue to be the centre of the record companies operations; regardless of the decline in industry revenues, record companies have maintained their level of investment in artists.
- In 2013 record companies invested some US\$ 4.3 bn in Artists & Repertoire (A&R) and marketing.
- That represents 27% of total recorded music industry revenues, up from 26% in 2011.
- From 2009-2013, record companies invested some US \$20 bn in A&R and marketing.

The Beijing Treaty

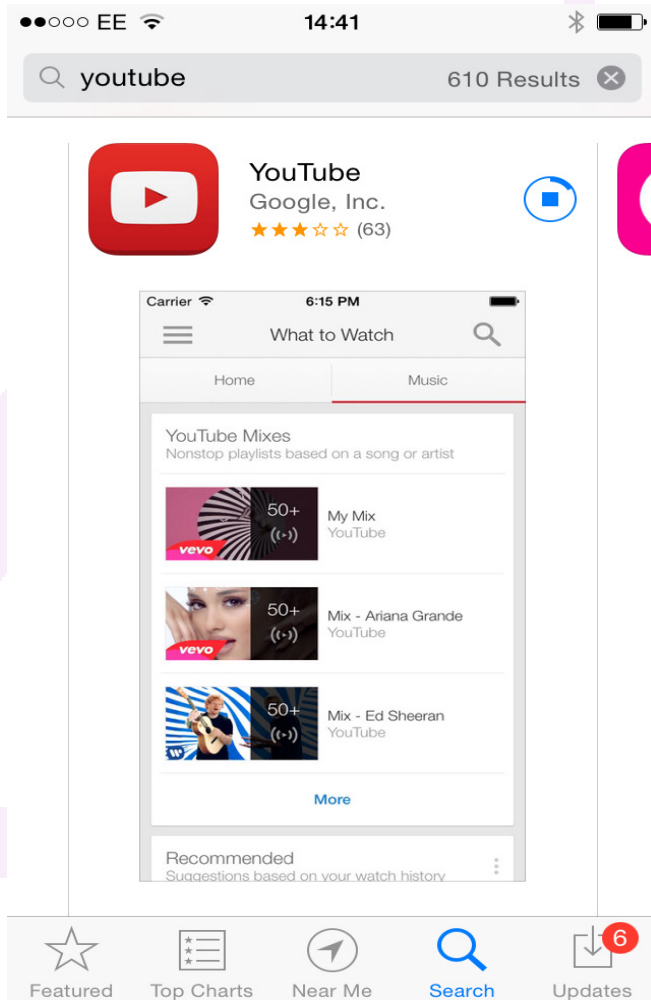
Why do the Beijing Treaty and audio-visual performers' rights matter for the recording industry?

1. Commercial interest

- Sound recordings are used as soundtracks in films and other audio visual products
- Record companies are also producers of music videos

2. Legal / treaty aspects

- Maintaining the inherent logic and coherence within and between WPPT and the Beijing Treaty



- Ipsos research from January 2015 found that **74% of adult internet users stated that they use YouTube for music.**
- With an estimated 1 billion monthly users overall, YouTube video service is currently the world's most popular music service.
- Hadopi research found that professionally-produced music videos are the most popular content on YouTube.

IFPI position - 1

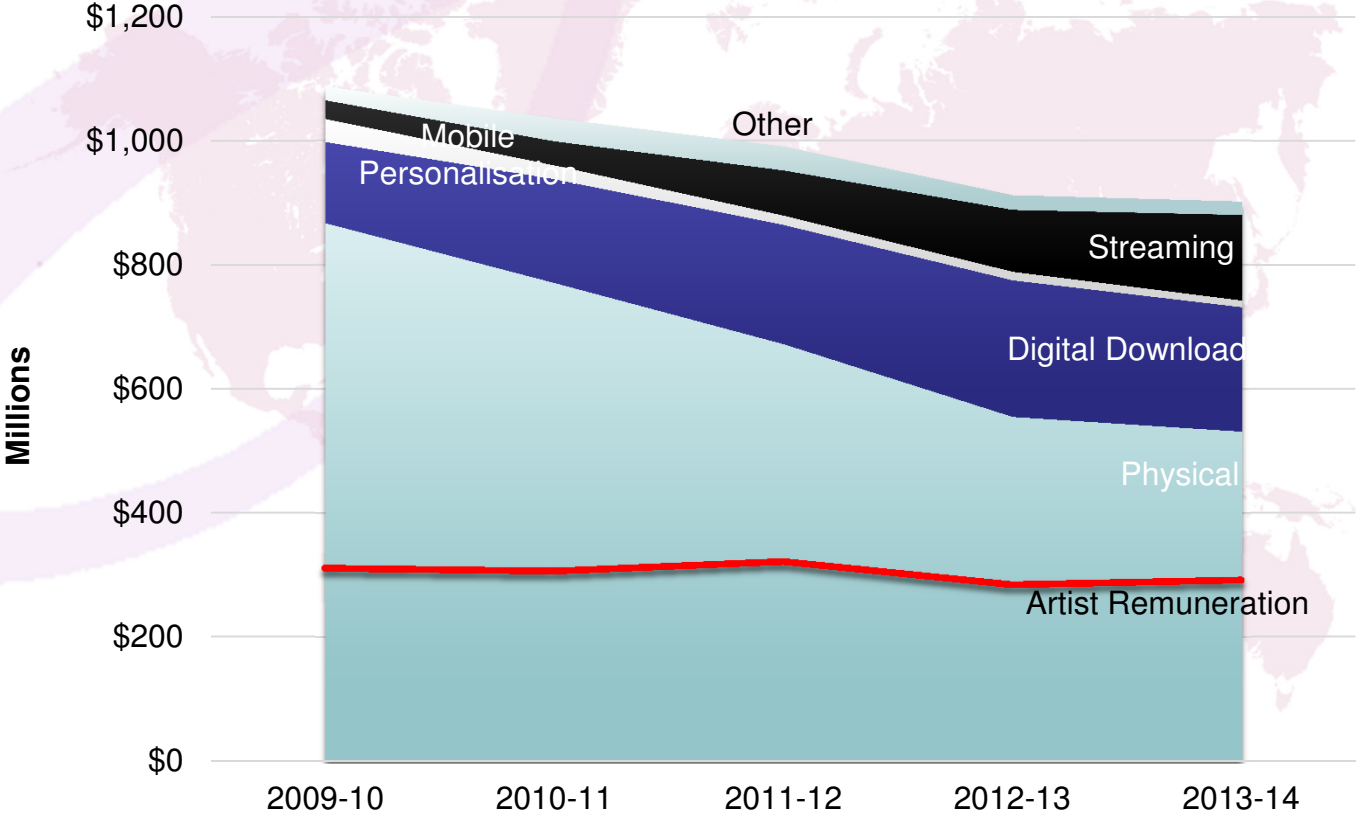
- IFPI supports adequate rights and protections for all performers
- The Beijing Treaty should however not be taken out of its proper context: there is no point in providing protection to audio-visual performers without:
 1. Protecting authors, musicians and phonogram producers; and
 2. Ratifying the 1996 WIPO Internet Treaties, (notwithstanding Article 1(3) of the Treaty).

IFPI position – 2

- When implementing the Treaty and/or providing (new) rights to AV performers, it is essential to understand and take account of the existing commercial practices within the industries, including that performers transfer their rights to producers, who in turn license the use of the products and remunerate performers, therefore:
 - If countries decide to grant AV performers public performance and broadcasting rights under Art 11, those rights should be exclusive rights (as foreseen in Article 11(1)).
 - Performers' rights should be generally transferable and subject to rebuttable presumption of transfer of rights to the producers (as contemplated by Article 12(1)).
 - There should be no additional “unwaivable” payments introduced under Article 12(3).

Exclusive rights continue to be a the major source of revenue for performers...

IFPI survey on artist payments across 18 territories over 5 years



- Local artists' **share of music sales revenue** has increased by 13 % over the past 5 years!
- Over US\$ 1.5 billion paid to local artists for local sales in the 18 territories

Source: IFPI

IFPI position – 3

- To avoid creating legal uncertainty, any new rights granted following implementation of the Treaty should apply only to fixations made after the ratification of the Treaty (Article 19(2)).

Treaty coherence

- Before or simultaneously with the implementation of the Beijing Treaty, states that have not yet done so, should ratify and implement the WCT and WPPT.
- The Treaties include a number of common and shared definitions and provisions, including protection of TPMs and RMI, that should be interpreted in a coherent manner.
- The Beijing Treaty protects *audiovisual performances*, it does not apply to performances fixed on sound recordings incorporated in audio visual works. Performances in sound recordings continue to be governed and protected by the WPPT.

Conclusions

- Copyright industries offer great growth potential, new digital distribution channels offer opportunities also to creators from smaller territories, provided their rights are respected and recognised internationally
- States should sign up to the Beijing Treaty together with the WIPO Internet Treaties.
- Implementation should respect, not disrupt, the relevant commercial practices within the relevant industry sectors.

... last but not least

- Rights matter only if they can be exercised and enforced in practice.
- Enacting laws and ratifying the Treaties is not worth much if:
 - Rightholders do not have access to enforcement measures and legal procedures to enforce their rights.
 - Rightholders cannot license their rights – individually or through collective licensing organisations if they so elect.
- IFPI is prepared to share its experiences and offer assistance to ensure that local rightholders and industries can grow and prosper.



www.ifpi.org

www.pro-music.org