
**Hindrances and obstacles to the circulation of repertoires,
productions and artists in Europe**

Report of the assessment mission

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The objective of the mission carried out by the EMO, with the support of the DG X, was to throw light on the difficulties and obstacles to the development of activities by professionals in Europe, which impede the circulation of repertoires, productions and artists on European territory, and their distribution on the international market.

The assessment report presented here emphasizes a certain number of problems mainly concerning live performances and recorded music publishing which, together with music publishing, currently represent the major vehicles for the diffusion of repertoires. The report also mentions the problems facing the manufacturers of musical instruments, crucial protagonists in musical practice, whether professional or amateur.

This report does not aim to indicate solutions to the problems raised, which are very diverse in character and to a large extent come under the responsibility of the member States, or which stem from the specificity of each market in the European Union, or again, are dependent on negotiations on an international scale.

Its sole purpose is to draw the attention of the Commission to the nature of the problems encountered by the professionals in their attempts to develop their activities at European level, with a unique culturally identifiable market in perspective, and to obtain the support of the Commission in the possible solution, on a case by case basis, of one or another of these problems.

This assessment mission was carried out by the European Music Office in the form of consultations with the aid of questionnaires, work groups involving professionals in the sectors concerned and interviews with representative personalities.

The field covered is not exhaustive, as the mission concentrated mainly on problems encountered by the promoters and the records producers. But this preliminary work will at least have the merit of constituting a first stage in a process of reflection involving all the partners in the world of music, concerning the construction of a real European music market.

This report should be enriched by the different reactions which it is certain to inspire, the exchanges which it might help to stimulate, and the contributions which may be suggested to complement it.

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I. THE LIVE PERFORMANCE

The live performance is a crucial element in the diffusion of repertoires, musical media and artists.

Indeed, it is above all on the occasion of a concert or during a series of concerts that the indispensable promotional and marketing activities which create awareness of the work of the artist, his repertoire, records, etc. can be brought into play.

These promotional actions, especially in the media, are undertaken by different protagonists in the development of the artist's career : the record producer, publisher and manager of the artist as well as, of course, the organizer of the concert and the promoter of the tour.

The vitality of the live performance is a necessary condition for the vitality of the creation, of the phonographic production and the musical publishing.

At present, the disparities arising from the systems in force in each of the member States regarding tax, social security, labour laws and different administrative constraints pose problems which are difficult to solve for any person envisaging production of a series of concerts or performances on European territory.

A description of these disparities, with the aid of the comparative tables below, will highlight the difficulties encountered by the different protagonists in setting up a European tour, difficulties which increase the financial risks inherent in undertakings of this nature.

The multiplication of these difficulties has one obvious consequence : promoters engage primarily in projects with high potential, and unless they receive external aid, neglect initiatives involving less well known artists, necessary though such initiatives are for the development of their careers.

The following tables were compiled from the results of a poll conducted by EMO under the responsibility of Myriam Tekaia, among live music promoter. For this reason, the different problems are seen from the point of view of the production and organization of concerts and tours.

1-A Tax regimes in force in the countries of the European Union

Table 1 : VAT ON TICKETS SALES

	VAT ON TICKETS
Austria	10%
Belgium	6%
Denmark	25% on all goods and services, including concert tickets
Finland	6% for "commercial concerts" 0% for "non commercial concerts"
France	2.10%
Germany	7%
Greece	8%
Ireland	Concerts are VAT exempt, unlike gigs in licensed venues with food and drink facilities : these are liable for VAT at 21%. However, foreign entertainers are liable to Irish VAT in respect of their performance and local promoters or venues can be held liable by Revenue. Artists should register and charge the promoter their fee plus VAT
Italy	10% on net ticket price
Netherlands	17.5%
Portugal	5%
Spain	16%
Sweden	6%
United Kingdom	17.5%

Table 2 : WITHHOLDING TAX FOR LIVE MUSIC PERFORMANCES

	WITHHOLDING TAX
Austria	- 20% of artist's gross earning - 25% of the artist's net earning, calculated on his fee only, production and other expenses allowed before calculation.
Belgium	- 18,54% on artist's salary and net incomes (hotels + catering + transport)
Denmark	Only applicable on artists' flat fee when artist is employed by the same concert organizer 3 or more consecutive days
Finland	15% for foreign artists, on their fee
France	15% on artist's fee, production and other expenses not allowed before calculation. This deduction does not replace income tax. The artist can have the 15% refunded at the end of the year on application to his income tax office.
Germany	30.91% for soloists and/or production companies and 28.76% on all earnings or financial advantages. No deduction is allowed. Special arrangements only according to specific double taxation agreements
Greece	20% on gross earnings of artist
Ireland	Not applicable
Italy	20% on the gross fee, unless a company invoice and proof of double taxation can be shown.
Netherlands	18,75% on the artist's fee
Portugal	25% on artist's fee, production and other expenses allowed before calculation provided promoter invoiced directly by production companies.
Spain	- 25% on artist's fee, production and other expenses allowed before calculation for UK and US artists. - Production companies from EC or USA supplying production services may get an exemption
Sweden	15%, based on 50% of total fee, production and other expenses allowed before calculation if the contract is split as 50% fee and 50% production.
United Kingdom	25% on the foreign artist's earnings The first £3,900 of taxable income at 20%, the next £21,600 at 24% and all income over £25,500 at 40%

Annexe : PERSPECTIVE OF THE GERMAN TAX SITUATION

Artists, organisers, agents and in particular their professional associations have before entering into effect of the tax law 96 already vehemently opposed the tax increase for limited-tax payers and led intensive discussions with the responsible politicians, in order to draw their attention to the particular problems concerning taxation of receipts of foreign artists and their productions. When, in spite of all warnings, the law was put into effect, the parties concerned urgently requested a fairer amendment from the Chancellor of the Exchequer. After the tax increase for artists was brought to the attention of the media by the parties concerned, the continuous public pressure on the Chancellor of the Exchequer apparently became such a burden, that the concept for the tax law 1997 actually contained certain modifications. It envisages a certain assessment choice, which gives foreign artists in Germany the possibility to choose between a flat rate or to justify their costs in order to calculate the true net profit and tax it according to the regular tax rates (0 - 53 %).

The author seriously doubts that the assessment choice offers a fair solution to the specific problem of this profession. The disadvantage of this system lies in the untouchable assessment period of one calendar year, after which an assessment can be established. Regardless of the amount of the actual profit, the artist must, during the assessment period, first effectuate income tax down payments based on flat rate taxation, without being able to adapt these to the true proportions in case of negative profit development. A prerequisite for tabular taxation would then be the declaration not only of the artist's profits obtained in Germany, but of his world-wide income. Apart from the considerable amount of work involved, the author assumes that no foreign artist would go to the trouble and expense involved (consultants, translations, travel- and transport costs).

The dissatisfaction of professional associations with the assessment choice concept and further demands for fairer taxation procedures have led to new considerations in the Ministry of Finance. Shortly before this article was printed (September 96), Bonn announced that a more suitable solution for tax rebates should be established. In this solution the limited-tax payer has the possibility to declare, directly after his concert or tour, his costs arising from his performance and apply for reimbursement of excess taxes. This procedure requires that at first the receipts of the limited-tax payer are taxed at a flat rate as usual and then he or his representative may apply to the Federal Tax Office for reimbursement of excess taxes. Because, as indicated above (see paragraph 2.1), the flat rate is based on a general cost rate of 50 percent, the fictitious profit is correspondingly calculated at 50 percent and then taxed with a flat rate of 50 percent (which leads to a tax rate of 25 percent); an over-taxation of the limited-tax payer is the case, when his costs are higher than 50 percent of the receipts. These excess taxes may - according to the present concept of the Ministry of Finance - be reimbursed by the Federal Tax Office to the limited-tax payer against presentation of normal cost justifications. One condition for the reimbursement is, however, that the limited-tax payer delivers proof for payment of the deducted flat rate tax in the above mentioned amount (see paragraph 2.4). As this, as mentioned above (see paragraph 2.5) can only be applied for and paid out until the 10th of the month following the quarter, the

reimbursement of excess taxes can be expected after expiry of this period at the earliest, but the limited-tax payer may submit his application immediately after his performance and thus speed up the process. By means of this procedure concept, the legislation has, for the first time, fulfilled the demand of the live performance profession, to create an up-to-date and fair tax situation, which does not put excessive strain on the organisers' and artists' cash-flow. It can only be hoped that this up-to-date concept will be successfully introduced into current legislation.

In summary it may be said that the media work encouraged by the live performance profession and in particular by the associations, as well as intensive discussions with representatives of the Ministry of Finance have at least resulted in a revision of the tax raise for receipts of limited-tax payers of the 96 taxation law, which will probably be retroactive from January 1st, 1996.

1-B Social security systems in the countries of the European Union

**Table 3 : ARTIST SOCIAL SECURITY CONTRIBUTIONS
FOR A LIVE MUSIC PERFORMANCE**

	SOCIAL SECURITY CONTRIBUTIONS
Austria	No social security charges on foreign artists - Law in course of modification
Belgium	- Artist's contribution : 13.07% - Employer's contribution : 34% + holiday contribution : 14.8% + insurance for industrial accidents : 1%
Denmark	Artists' fees are net. Social charges are payable neither by the concert organizer nor the artist's employer
Finland	- pension contribution : 15% (employer 10,7% / employee 4.3%) - social security : 4% (depending on the importance of the employer) - unemployment security contribution : 2.5% (employer 1% / employee 1.5%) - holiday contribution : 15% for a single concert / 8.5% for more than one performance
France	26,21% on the artist's fee : - Pension contribution : 8.75% - Holiday contribution : 12.51% - Professional tax : 2% - Help to learn tax : 0.50% - Help to construction : 0.45% - Professional training : 2% The producer must observe French labour law and bilateral agreements existing between the artist's country of residence and France.
Germany	- For all the artists it is since 1982 obligatory to join the Artists Social Insurance Organisation, the KSK. Likewise the half, which employees usually have to contribute to their social insurance ; self-employed artists have to pay their due to the KSK an share according to their copntribution to social security. The amount is a percentage of their income of any previous year. The height of the percentage equals the social security part of the employeres (28% of the income) - The promoter pays a certain percentage on any salary he pays to artists, regardless of whether or not they are members of the KSK, foreigners or Germans. The basis of the payment is the artist's gross fee including taxes. However, proven travel, accomodation and catering costs may be deducted. The percentage is recalculated every year. The share for artists in the music field was 1.1% of the gross income in 96 and will be 2.6% in 97. The specific rate is published each autumn for the following year..
Greece	

Ireland	Pay Related Social Insurance (PRSI) is charged at 5% to employees and 12% to employers
Italy	A social security tax of 28% on the foreign artist's fee must be paid if the artist is unable to provide social security forms or if no convention exists between his country and Italy.
Netherlands	A promoter does not pay social security contributions if he employs an artist for less than 2 months.
Portugal	Social security collects 28% of the promoter's monthly average income for medical services, unemployment and pension contributions..
Spain	No social security charges on foreign artists.
Sweden	No social security charges on foreign artists.
United Kingdom	There is no social security charges on foreign artists - local residents pay approximately 7.3% of salary for self-employed artist up to a maximum of £16,240.

1-C Labour law in the countries of the European Union

Table 4 : LICENCES

	LICENCE
Austria	No licence required for promoter, managers and agents
Belgium	<ul style="list-style-type: none"> • Agents need a licence • Promoters and managers need no licence
Denmark	<ul style="list-style-type: none"> • Promoters and managers need no licence • Agents need permission from the Danish Ministry of Labour
Finland	<ul style="list-style-type: none"> • Promoters and managers need no licence • Agents need a trader's licence if the company acts as an employer
France	<ul style="list-style-type: none"> • Promoter need a licence • Agents need a licence only if they sell concerts • Manager status does not exist
Germany	No licence required for promoter, managers and agents
Greece	
Ireland	No licence required for promoter, managers and agents
Italy	<ul style="list-style-type: none"> • No permanent licence is issued to the promoter : it has to be requested each time • No licence exists for managers since their status is not recognised • Agents must have a licence from the Ministry
Netherlands	No licence required for promoter, managers and agents
Portugal	<ul style="list-style-type: none"> • Agents and managers don't need licences • Promoter must have a licence, given by D.G.E. • Each show requires different licences and a document signed by S.P.A. (Authors & composers society) specifying the payment of the performing rights
Spain	Promoters, agents and managers have to be registered or, if they are foreigners, use a Spanish promoter as a partner
Sweden	No licence required for promoters, managers or agents
United Kingdom	No licence required for promoters, managers or agents.

Table 5 : WORK PERMITS FOR LIVE MUSIC PERFORMANCE

	WORK PERMIT
Austria	Required for non-EU citizens
Belgium	Required for non-EU citizens
Denmark	Required if the artist is employed for more than 3 consecutive months
Finland	Required for non-EU citizens
France	Required for non-EU citizens
Germany	Not required, except when artists are subject to employment conditions
Greece	
Ireland	Work permits are required for non-EU nationals
Italy	A simple declaration to the responsible Public Authority or a letter from the Consulate of the artist's country together with a request from the local promoter, for all countries not having signed an agreement with Italy
Netherlands	Required but only as a formality
Portugal	No work permit required for artists
Spain	Not required for a short tour
Sweden	Required for non-EU citizens
United Kingdom	Required for non-EU citizens

1-D Performing rights in the countries of the European Union

Table 6 : PERFORMING RIGHTS

PERFORMING RIGHTS	
Austria	Normally 8.4%, can be reduced to around 4%
Belgium	8% after VAT and city tax
Denmark	5.5% - KR111,000 3.3% - KR111, to 165,000 2% over KR277,500
Finland	7% - FIM 8.000 - 50.000 6% (minimum FIM 3.950) - FIM 50.001 - 90.000 5% (minimum FIM 5.750) - FIM 90.001 - 200.000 3% + FIM 10.000 - FIM 200.001 -
France	8.80% + 1%
Germany	Rates are calculated on the bases of the highest entrance fee on the one hand and the maximum capacity of the venue on the other. The number of tickets sold is not taken into account. The rates for the various types of concerts and the various prices are published in the GEMA rate list. Members of Promoters Associations benefit from special discounts (20%) on the usual performing rights rates.
Greece	6%
Ireland	3%
Italy	10% on net income
Netherlands	7% of the gross fee after VAT or 7% over the fees paid to the artist
Portugal	4.4% on sold out up to 3,000 seated. 5% on sold out all other situations
Spain	10%
Sweden	9.24% - 2,000 tickets sold 6.45% - 10,000 tickets sold 2.79% - above 10,000 tickets sold
United Kingdom	3%

1-E Insurance regulations in the countries of the European Union

Table 7 : INSURANCES FOR LIVE PERFORMANCES

INSURANCES	
Austria	<ul style="list-style-type: none"> • There is no longer any "appearance insurance" • Only civil liability and damage insurances are available
Belgium	Insurance is the responsibility of the organisers of the concert. They must cover civil liability, insurance on the instruments and, in some cases, "non-appearance" insurance.
Denmark	<ul style="list-style-type: none"> • A professional musician or artist may apply for membership of the Danish Musicians' Union or Danish Artists' Union, which offer specialized insurance for musical instruments and equipment
Finland	<ul style="list-style-type: none"> • Accident insurance : 1.6% • Life insurance : 0.1%
France	<ul style="list-style-type: none"> • Insurance on the material on tour: 2,3% of the whole cost of the material • Non-appearance insurance : 3,5% of the whole budget
Germany	<p>Insurance is on demand either of the artist or the promoter.</p> <ul style="list-style-type: none"> • Insurance against damage of the artist's equipment is usually provided by the venue. • Insurance for personal liability is the responsibility of the parties involved. • Local promoters may apply for "non-appearance" insurance in case the concert is cancelled.
Greece	
Ireland	<ul style="list-style-type: none"> • Promoters and venues must be covered under civil liability insurance.
Italy	<ul style="list-style-type: none"> • The promoter usually applies for both insurances : civil liability and "non appearance". These insurances are not requested by the Authorities but the venues require civil liability insurance.
Netherlands	<ul style="list-style-type: none"> • All promoters must provide civil liability insurance- and also non-appearance insurance
Portugal	<ul style="list-style-type: none"> • There is rarely any insurance for venues and live shows ; usually there is only civil liability insurance.
Spain	There is no specific performance insurance.
Sweden	
United Kingdom	<ul style="list-style-type: none"> • It is normal for the artist to take out two types of insurance although this is not mandatory by law : <ul style="list-style-type: none"> - public, employers' and product liability cover - cancellation insurance to cover costs and/or loss of profit if the show is cancelled.

1-H Financial aid for tours available in the countries of the European Union

Table 10 : FINANCIAL SUPPORT WHEN TOURING ABROAD

	FINANCIAL SUPPORT AVAILABLE WHEN TOURING ABROAD FROM :
Austria	<ul style="list-style-type: none"> - ÖKB - SKE - Ministry of Culture
Belgium	<p>¥ For the Walloons :</p> <ul style="list-style-type: none"> - CGRI (tour support) - Wallonie-Bruxelles Musiques (tour support, market, information) <p>¥ For the Flemish :</p> <ul style="list-style-type: none"> - Ministerie Van de Vlaamse Gemeenschap Administratie Buiteblansbeleid (support to 30 artists from all artistic fields)
Denmark	<ul style="list-style-type: none"> - Danish Music Council (tour support) - ROSA (tour support and information) - Danish Jazz Association (tour support and info) - Danish Folk Council (tour support and info) - Danish World Music Association (tour support and info) - Danish Musicians' Union (tour support) - Danish Artists' Union (tour support)
Finland	<ul style="list-style-type: none"> - Performing Music Promotion Centre (IFPI and Musicians' Union) - Foundation for the Promotion of Finnish Music (composers' organizations and Publishers' associations)
France	<ul style="list-style-type: none"> - Professional organizations : SACEM, SCPP, FCM, ADAMI, Fonds de Soutien, Bureau Export - Public partners : DAI, AFAA, DMD
Germany	no financial support available
Greece	
Ireland	<p>¥ The Arts Council have a number of flights available to certain destinations which can be accessed through individual applications. Once they have filled their quota, no more can be granted in that year.</p> <p>¥ The Irish Trade Board offers support facilities to bands and labels attending industry seminars.</p> <p>¥ If an artist is invited to represent Ireland in another country, the Cultural Relations Committee of the Department of Foreign Affairs can offer support.</p>
Italy	no financial support available

Netherlands	- SPN (Foundation for Pop Music, Netherlands) - CONAMUS
Portugal	Exceptionally, the State Cultural Secretary (S.E.C.) helps when a success is worldwide.
Spain	- SGAE
Sweden	
United Kingdom	no financial support is available, exceptionally from the British Council

The disparities shown in this report concern different domains; from the tax and social security systems and labour laws (Tables 1 to 5) or the legal and administrative systems (Tables 6 and 8).

The problems mentioned may have greater or lesser financial implications in the different cases, but all cause problems of management and organization which can prove daunting.

In the tax field, two problems were examined :

- VAT on ticket sales (Table 1) which displays a wide range of rates applied : from 0% in Finland for performances described as "non commercial" up to 25% in Denmark ;

- deductions at source (Table 2), concerning remuneration of performing artists, which reveals not only a diversity of tax rates (from Ireland, where no system of deductions applies, up to the 30,91% for soloists which is applicable in Germany), but also a wide variety of taxable bases (see the more detailed description of the German system which should come into force this year).

There are also glaring disparities in the field of social security for performing artists, since in some States (United Kingdom, Spain or Sweden) the social security system is not applied to foreign artists, while others apply a much more protective system (France, for instance). In the second case, this practice can be perverse in its effects, since in reality, many of the contributions deducted will never be redistributed to the contributing artists (leave entitlement, etc.).

It should also be noted that since artists habitually receive their fees net of deductions, promoters find that they are obliged to pay the deductions at source and the different social security contributions on behalf of the artists, without deducting them from the fees.

This custom causes considerable additional costs ; in France, for example, if deductions at source and social security payments are included, the producer will have to pay 41.21% of the artist's net fees. In such cases, there is a difficult task of explanation to be done, to get the artist to understand, when his fees are being negotiated, the scale of the deductions which will have to be paid by the producer ; and further, the artist must be able to see the advantage to himself in benefits from the system to which he will have

contributed. It is obvious that the lack of clarity in the various systems in force, and the difficulty of harmonizing them all, poses considerable problems in their application.

It is not difficult to imagine the complexity of the task for the promoter of a European tour just for a single solo artist and his accompanying musicians, but the situation is even worse when large groups are involved. The financial consequences can weigh heavily on the feasibility of a project, but the administrative complications are also a formidable obstacle to the movement of artists and musical groups.

The next question that arises is the areas of competence of the various protagonists in the organization of a tour (producer, manager, agent). Here again, the labour laws applicable to these categories of professionals vary greatly from one member State to another (Table 4) : in Germany, Austria, the Netherlands and the United Kingdom, no licence is required for the different operators mentioned above, while special regulations are observed in each of the other member States.

While work permits for artists and musicians present no problem in the different States of the European Union (Table 5), it should be noted that problems arise in the case of foreign (non-EU) artists residing in a member State of the Union, or produced, published or belonging to a musical group in this same State. Even in those States which are currently signatories to the Schengen agreements, adequate solutions have not yet been found to the numerous problems posed by the nature of musical activity (which derives all its richness from pluralism in both creation and interpretation).

Regarding performing rights (Table 6), there is a wide range of rates, from 1,5% of receipts in Germany to 10% in Spain.

The different regulations concerning insurance, health and safety at public performances (Tables 7 and 8) are also extremely diverse, which can add to the administrative complexity remarked upon elsewhere. It is worth noting that some professionals would like to see general adoption of the Popcode in force in the United Kingdom, which takes into account all the regulations regarding the organization of "pop concerts".

Incidentally, logically enough, the travel and transport costs for the artist, musicians and technical equipment (Table 9) are cited by the professionals polled as the most expensive item in a tour budget.

Lastly, consideration of the financial aid available in certain member States for the organization of tours (Table 10) reveals further striking disparities. Closer analysis would reveal another form of disparity between classical music, which is largely taken into account in the cultural policies of member States at national, regional or local levels, and the various types of contemporary music (traditional, pop, etc) which are rarely included.

France provides a particularly interesting example. Institutional grants, traditionally allocated to classical music in general, have been extending, to a lesser degree, since the commercial potential is clearer, to the domain of contemporary music for the last fifteen years. Furthermore, the law of 3rd July 1985 on royalties and related rights, providing for the allocation of a proportion of the taxes levied on account of new rights (private copying, just remuneration) to actions in the public interest, has enabled professionals,

through the intermediary of their non-trading management companies, to participate fully, in collaboration with the public authorities, in the promotion and development of French music.

With financial resources on a smaller scale, and in other forms, similar synergies between the cultural ministries and the professionals have been established in other States, notably in Finland, Denmark, Sweden, Austria and the Netherlands.

In Ireland, a decisive role is played by the public authorities (Arts Council, Irish Trade Board, Cultural Relations Committee, Department of Foreign Affairs), while in Spain it is the professionals, in particular the authors (SGAE), who are pursuing a voluntarist policy in this field.

Professionals in the other States (United Kingdom, Germany, Italy, Portugal, Greece) receive little or no publicly funded assistance.

II. RECORDED MUSIC POLICY

The questions dealt with in this chapter concern a variety of different fields.

Considering the nature and diversity of the national markets for records, a more detailed analysis of this retailing sector reveals situations quite specific to each market - even forms of national protectionism - which can hinder development of the distribution of recorded music products in Europe. The study carried out for EMO by Jean-Yves Mirski, director of research at the Syndicat National de l'Edition Phonographique (SNEP-IFPI France) on the distribution of records in Europe, clarifies the issues at stake in this sector.

Below is an account, by the IFPI, of two problems which do obvious damage to record producers, in Europe and on the international market : piracy and parallel imports.

Finally, the diversity of VAT rates on records applicable in the different member States, the fact that the cultural character of records is not recognized, thereby preventing the record from benefiting from the lower tax rates applied to cultural products, constitutes a brake on the development of the activity in Europe, and can be harmful to public access to musical products.

The analysis of this question is presented by SNEP-IFPI France.

2-A : Record Distribution in Europe

By Jean-Yves MIRSKI

Although Europe is the second largest market in the world, representing nearly 31 % of sales in 1995, behind the United States and well in front of Japan, Europe is a long way from realising its full potential in terms of record distribution. In fact, as with business generally, it represents a multitude of special situations which are independent of one another. It could be said that, up to now, distribution has certainly been one of the sectors, if not the main sector, in which a certain form of national protectionism is to be found - though not necessarily wanted. You only need to look at the delays and difficulties experienced by any group trying to become established in a country other than its own. Record distribution is no exception to this rule, even though some recent examples show that changes are beginning to take place, and that battlegrounds between dealers are beginning to move beyond their countries of origin. In this field, as in many others, internationalisation is already under way, even though examination of actual situations shows considerable commercial disparity, whilst, increasingly frequently, some musical tastes and records bought are identical in different countries at the same time.

There is much to be achieved in a sector where a record purchase is often an impulse buy, and where a reduction in the number of points of sale everywhere is a real brake on the development of sales of consumer goods.

In addition, the extraordinary changes in progress with the probable arrival of new mediums such as DVD, and above all the explosion in on-line services such as Internet and digital radios, as well as programmes on demand, have given rise to some fears of a rapid disappearance of traditional music supports, with obvious consequences for physical distribution. However, for the moment this has not happened, and there are unlikely to be any significant changes in this area over the next 10 to 15 years.

We will, therefore, study record distribution in Europe on the basis of an analysis of the channels which exist in each country.

What are the main trends observed ?

- an increase in multiple specialists operating within chains
- a fall in the number of independent dealers
- an increase in non specialist sales.

As with any form of goods, it appears that record distribution naturally divides into two mixed groups :

- specialists
- general stores which sell records.

I - SPECIALISTS

- 1-1) independent specialist record dealers
- 1-2) record dealers operating together in the form of chain stores
- 1-3) multiple specialists.

1-1) INDEPENDENT SPECIALIST RECORD DEALERS

Traditionally -we could say automatically- when we think of record dealers we imagine the traditional independent record store. Today, however, these are doing worst of all.

Their sales are slowing down in France, Great Britain and Germany, three countries which are responsible for over 2/3 of record sales in the European Union.

The 1,300 surviving independent British record dealers (there were 2,200 in 1985) now represent just over 10% of the retail market, whilst in Germany this figure is 20 % (having dropped by 1/3 in 3 years) and in France their market share is less than 8 %, 3 times less than in 1972, when there were 3,000 record dealers, compared with 400 today.

On the other hand, in Benelux, and especially in Belgium, they have a 40 % share of distribution, with around 200 points of sale, and in Italy they continue to do well. In fact, hypermarkets - specialist and general - are not well represented in Italy : although there are still about 1,000 traditional record dealers, they are not very competitive and find modernisation very difficult. The situation is fairly similar in Spain (800 record dealers) and in Greece (about 400 record dealers representing over 2/3 of the market).

In Portugal, there are about 150 specialist record dealers, compared with 300 a few years ago. In Sweden, the number of independent record dealers is estimated at 300, in Finland about 50, and in Ireland 140.

Everyone is aware of the reasons for this decline in many countries : the necessity to hold a minimum of nearly 10,000 different catalogue items, some of which are rarely sold, makes stock management very difficult and compromises profitability. In addition, they are unable to match the prices charged in large stores, which results in a slowing down of sales : record buyers are often very young, and price therefore plays a considerable part in their decision to purchase. In fact, it seems that some of the record dealers who have survived may have done so thanks to computerisation, which has made it possible to rationalise their activity - traditional record dealers have often been the first to show an interest, with some of them even designing their own management systems.

Many dealers manage to stay in business, or even expand, by specialising in a type of medium or a type of music, more easily managed, on condition that this specialisation does not involve them in a legal minefield ...

Conscious of the importance of the existence of a fabric of record dealers, frequently offering advice and sales promotion when secure in their profession, German record companies, in co-operation with the retailers' association and the ministry of the economy, have created a Support Fund to encourage professional training and the

modernisation of stores. This type of action has also been taken in Holland, but ran into organisational difficulties. Some assistance is also available in France (Fisac).

Nevertheless, it is expected that a third of traditional record dealers in Germany will disappear before the end of the year, especially since in Germany selling at a loss is allowed by law. This causes fierce competition, once again at the expense of the retailers.

In France today, there is in fact a real lack in terms of independent points of sale, with a particularly worrying situation in average sized towns. The considerable share held by hypermarkets (a particular feature in France, due to their high share of the record market) is one of the reasons for this decline, though not the only one.

Faced with these difficulties, a certain number of record dealers have decided to form associations with each other, whilst maintaining their independence, and others have tried to optimise management by opening a few points of sale - though not enough to be able to call them chains. This is the case with Comet in Ireland (2 stores), and Cosmos in Finland.

In France forty of the bigger record dealers have joined together to form the Starter group, whilst in Holland 1,350 retailers, who have formed the NVGD group, use its buying power to set up specific deals with record companies.

Holland, too, has the highest number of "record" points of sale per inhabitant.

In Great Britain Andy's records is the biggest chain of independents, with 31 stores and 1 % of the market.

1-2) CHAINS OF RECORD SHOPS

Their main characteristic is that of being small or medium-sized organisations which belong to a chain, which gives them advantages in terms of buying conditions and overall management. The scale of savings achieved can be considerable - for example, on the development of a single computer system.

This is a sector (chains of record dealers and multi-specialists) which is making extremely good progress throughout Europe. However, it seems that these chains often have difficulty in developing outside their own countries : although it is rare to see this type of point of sale closed down, that is exactly what happened to Virgin and FNAC in Berlin, whilst chains like Our Price, WOM, Ricordi and Nuggets have no stores outside their own countries. Free Record Shop and FNAC have some plans, but nothing on a large scale for the present, although a movement in this direction seems to be developing.

The biggest chain in Europe is Our Price, with an average store size of around 160 m² and with 275 stores in Great Britain, 67 of which were bought by WH Smith (parent company) in 1988 from Virgin Stores UK. Our Price is responsible for 18 % of turnover in record sales and has 1 store per 180,000 habitants! Our Price is stronger on full price than on budget, and its stores are very well established in London.

Moreover, its progress has been rapid : in February 1987 it had 180 stores. This chain is a prime example of a neighbourhood chain store. 25 % of the chain belongs to Virgin.

Still in Great Britain, 2 new names have just appeared, and are having a dynamic effect on the specialist chains, which have increased album sales from 35 % in 1994 to 46 % in 1995 (and singles sales from 29 % to 40% in the same period).

MVC was launched by Kingfisher (who already own Woolworth's) and had 29 stores by the end of 1995. This is a discount chain, whose objective is 100 stores and over 12 % of the English market within the next 2 years.

NOW, the other chain, appeared in 1994 and already has 32 stores, with plans to open another 20 to 30 a year. Its objective is to have 200 points of sale, some of which will be franchises within large stores : this was, incidentally, the special feature of the original concept of this chain, which also has a highly efficient unit management system. It is supplied by a wholesaler.

The Free Record Shop chain, of Dutch origin, is in the same broad category, with very simple décor. It has 123 stores in Holland and 26 in Belgium, and has just opened its first three stores in Norway. This chain wants to open more stores, and has decided to expand by opening small discount outlets in stations in Benelux. Note that in terms of market share it has 13 % in Holland. It also owns the Van Leest chain and its 17 stores.

In Belgium, too, a certain number of chains are established : there are 26 stores in the Free Record Shop chain, Superclub with a hundred stores, Record King with 8 points of sale, Musikladen, Flemish Record, Music for you, etc. Superclub, which belongs to Philips, has great ambitions in Europe : this chain already has 22 stores in Holland, 5 in France and is setting up in Germany.

In Italy, this type of medium-sized store is represented by Ricordi and its 22 stores (10 % of the market), with a turnover of over 300 million francs : its largest store is situated in Milan (2,700 m²).

Another Italian chain, though with only 2 stores (Rome and Milan), is Messageria Musicale, which still has the largest store in Italy with 1/3 of its 3,500 m² dedicated to records.

It should be noted that in Italy Milan is a special case, since the 3 large chains of specialists are represented here, which is not the case in other towns, where traditional stores are very well represented. Messageria Musicale has only 2 stores in Italy, and Virgin 3 (the third opens in September in Bologna).

In Ireland, the Golden Disc chain with 27 points of sale holds second place in the country in terms of market share.

In France, the situation of this type of store has changed significantly in recent years. Out of the three chains in existence 3 years ago (Madison, Nuggets and Music Way), one - Music Way (from BHV) - has closed down, whilst the other two have merged under the direction of the owner of Madison, wholesaler DCG. In addition a new chain, Extrapole, has appeared.

With 3 stores (including 2 of 2,000 m² and 1 of 3,000 m² in Paris) Extrapole has a long term objective of twenty stores. These points of sale introduce a new concept " all culture under one roof " with books, records, videos, multimedia, stationery, games, etc. all together.

The Madison/Nuggets chain is currently being restructured, with stores of about 200 m² and 110 stores at the time of merger, which will be reduced to about 70. In fact, its concept is also changing, since from now on its product base (records) will be extended to include books and video cassettes, in partnership with specialists. This chain makes about 450 million francs.

New arrivals are Plein Ciel Médiastores: originally stationers, this chain is now extending its product range to include records and videos. At the time of writing there are 5 stores, with surface areas of 700 to 1,800 m², but for the moment records represent only a tiny percentage of turnover.

All these chains together hold 5 to 6 % of the French market; We should also mention the chain created by Harmonia Mundi (about 20 stores), which only sells the company's own records and independent labels.

In Finland a chain called Levypiste covers 20 % of sales. Norway has 3 specialist chains, Innova (with about thirty points of sale), Hysj ! Hysj ! (20) and Aykers Mic (a dozen). In Denmark, the market is dominated by chains Fona HMV (60 stores), Fredgard (about 40 points of sale), Accord and Guf (5 points of sale each).

In Portugal the chain Valentin de Carvalho has 17 stores - 8 in Lisbon, and a 40 % share. Other smaller chains such as Strauss and Musica e Video (7 stores) are also present here. In Greece, only the Metropolis chain plays a significant role in the record market, whilst in Sweden the chain Pitch Control, a specialist in dance music, has 50 stores.

1-3) MULTI-SPECIALISTS

1-3-1) The big chains

This sector could well be called the heavyweight of record distribution. The space dedicated to records can be extensive: 2,500 m² for the Virgin Megastore in Paris, 2,000 m² for some German stores, 1,500 m² dedicated to records and videos at FNAC Ternes. This is also where the big names have begun to make an impression outside their countries of origin.

The multi-cultural concept has gained favour with public and investors alike, making separation from the previous category somewhat arbitrary. However, this category consists of stores which are either multi-product stores, like FNAC in France, specialising in leisure/culture, or very large units.

This type of distribution has over 30 % of the market in France and Germany, about 40 % in Great Britain and Belgium, and is developing fast due to its associated activities: sales of concert tickets, signatures, internal showcases and radio or television.

FNAC represents France in this category, with 50 stores in France and 23 % of the record market, compared with 8 % 12 years ago: this is the leading name in France. One

of the particular features of FNAC is that records represent only 25 % of its turnover. The largest of these stores carry over 120,000 stock items.

FNAC's overall turnover is more than 10 billion francs. FNAC is part of the Pinault-Printemps-La Redoute group. In France it is responsible for sales of one in every two classical CDs, and its national development plan includes the forthcoming opening of two stores in Paris (one on the Champs Elysées) dedicated exclusively to records, multimedia and video. FNAC is also expanding abroad, with 4 stores existing in Belgium. In Spain, FNAC has one store in Madrid, with an area of 5,000 m² and a 4 % share in the record market. A second store is to open in Barcelona before the end of the year (3,200 m²).

By the year 2 000 FNAC aims to have 5 stores in Spain in these 2 towns. A store was opened in Berlin in December 1991 and has since closed (in 1995) - like Virgin.

The Virgin concept is different in that it is basically restricted to musical activity :

In Great Britain, its country of origin, Virgin is associated with WH Smith - which already owns Our Price - in the management of British Virgin Stores (including 11 Megastores), which have 6 % of the market. In fact, within the Virgin/WH Smith association the "Our Price" name is reserved for small stores and Virgin for Megastores.

In France, Virgin has 5 stores representing about 6 % of the market, the biggest of which offer 150,000 stock items, with records representing over 70 % of turnover. It has 5 % of the market in Austria and 4 % in Spain, with 3 stores in Austria and 4 in Spain (including 2 in airports).

There are now also Virgin Megastores in Italy, in Germany and also Japan, the United States ...

This is one of the most international chains, with 60 stores in all. Another special characteristic of Virgin is its diversification : airline, financial services, cola, etc. Note that Virgin's international development is often successful due to the agreements made with local partners. It should also be remembered that the megastore concept, which is now a universal trend, offering all cultural products in one large area, was originally launched by Virgin.

Its present strategy is a revival of expansion, compared with that of a year ago. On 23rd April 1996 in New York the biggest store in the world was opened in Times Square, with 1,000 listening points in a total area of 7,000 m² and a million CDs/cassettes in stock. New store projects are being studied in Hungary, the Czech Republic, Portugal and Norway.

On 31st August a Virgin Megastore of 1,500 m² opened in Rotterdam - the second in Holland, following that in Amsterdam, and two other stores are planned in that country for 1997. One store has opened in Italy, two in Ireland. In Belgium a Megastore of 1,500 m² opened in Brussels at the end of 1995, with a second opening in Antwerp at the end of 1996.

In Portugal, two stores, including one in Lisbon, are to open soon. Virgin is also opening small stores in a certain number of airports in Europe (Portugal, France, etc.). In France, thirty stores are planned over the next five years, following three years of stagnation. An 800 m² store is to open before the end of the year, in a very large shopping complex at Villiers en Bière

Another British chain which is well established internationally, though more so in Commonwealth countries than in Europe, is HMV, subsidiary of EMI, with 100 stores in Great Britain and a market share of 13 % compared with 8 % in 1988.

This chain has made considerable progress in recent years. It has, for a long time, owned the biggest record store in the world, in Oxford Street (5,000 m²), with 160,000 stock items - the average store size is 300 m².

The chain, founded in London in 1921, now has 235 stores including 97 in the United States, 15 in Japan, and 21 in Asia and Australia.

As we see, less than half of its stores are situated in Europe, whilst Virgin Megastore has 46 stores out of 60 on this continent.

HMV arrived in Ireland in 1985, and is now the largest record distributor in the country, with 27 % of the market. Two new stores are to open soon in Dublin, bringing the total number of stores in Ireland to eight.

Note that HMV's only European continental experience to date, the opening of a store in Bordeaux in October 1990, resulted in its closure 6 months later, illustrating the difficulties experienced by companies in setting up outside their own countries. This is also exactly what happened to Virgin, which closed its store in Berlin, stating that the extremely strict opening hours in Germany (closing at 1400 on Saturday afternoons, 3 Saturdays out of 4, no Sunday opening) prevented the normal development of such a store.

However, September 1996 will see the opening of the first HMV in Germany, near Düsseldorf, in the biggest shopping centre in Europe (200 stores). The objectives of HMV Germany are very ambitious, with plans to open 15 stores in 5 years.

In the same category are the WOM (World Of Music) stores in Germany, which have about 5 % of sales in that country, although they have only been established for twelve years. This is the biggest German chain, selling, according to its founder "music, not just records" which could in fact apply to a large number of stores of this type.

The other big German chain is Saturn, which also sells hi-fi equipment, with 28 stores and about 6 % of the market. It plays a significant role in the Austrian market.

On the German market, Mediamarkt should also be included in this category. This is the second biggest company for record sales in Germany, with 8 % of the market and 72 stores, forming a group making nearly 14 billion francs and selling, in addition to records, hi-fi, video, television, photographic and household equipment - at the very limits of the specialist category !

The chain, like its other German counterparts, favours simple, unsophisticated stores and has 9 stores in Austria and 2 in Switzerland. In addition, it has 12 stores in France under

the name Hypermedia, with a market share of about 2 %. Another chain established in Germany is Promarkt, which is very close to Mediamarkt in terms of concept, with 18 stores. This chain also has stores in Austria.

In Belgium the Megastore concept is gaining ground : several stores of this type already exist under the HVH name, many of them over 1,000 m². This chain has 15 stores in Belgium covering about 30 % of the market , with plans to develop smaller stores in town centres and shopping centres. It will attack the French market in 1997, and that of Brazil.

In Sweden the Skivakademien chain has a few big stores, including one of 3,000 m² in Stockholm (Mega Skivakademien...).

Our summing-up on this type of store would not be complete without mentioning Tower Records (an American chain) which is gradually becoming established in Great Britain and has plans to become established on the continent, but has only 6 stores in Europe (of which 5 are in Great Britain) out of a total of 174.

Tower, established in London for the last 10 years, has a very aggressive pricing policy.

1-3-2) Mail order

Halfway between specialists and non-specialists, we find sales through clubs and by mail order, which is very extensive in some countries, with figures of 12 % in Great Britain, 17 % in Germany, 20 % in Holland and 10 % in Italy and Finland, though low in France and Spain, with 7 % and 4 % respectively.

This is a sector in which mail order companies selling all types of product, including records, coexist with companies which are subsidiaries of record producers (Dial France, Britannia in Great Britain, Music Direct in Italy, Music Plus in Holland for Polygram) and companies specialising in books and records (Bertelsman in Germany and Italy, France Loisirs (50 % subsidiary of Bertelsman) in France).

In some cases, these mail order companies have stores. It may be noted that mail order is, to a large extent, confined to northern European countries, where it is a more widespread custom.

However it appears that there is a serious problem with its development, particularly in France, due to numerous cases of stealing during transport. Nevertheless, sedentary lifestyles and the development of computerisation are likely to contribute to the continuing expansion of mail order in Europe.

In fact there is a new trend developing, with advertising on musical TV channels such as MTV, and also on general channels, carrying Europe-wide publicity for records, often compilations, not available on other channels and at very attractive prices. It is very difficult to judge the market share achieved by this type of marketing, which is in fact a genuine form of European distribution, but its development is evident everywhere.

Mail order is obviously the next area of change for record distribution in Europe.

In fact there are several possible development areas :

- The possibility of ordering records via Internet. This is the case with a large number of companies, the largest of which seems to be CD Now, whose turnover is in the order of 10 million dollars. Most of these companies are based in the United States, and deliver records throughout the world within a few days. Other companies include Music Boulevard, E Connection, CD world, CD Mail. Record producers are watching these developments attentively : in the long term their records could be marketed directly by specialist subsidiaries. The main distributors are, obviously, also considering the question carefully.
- Another possible option is downloading of titles : here we are talking not of sales of physical records, but title sales - which are outside the scope of this study.

1-3-3) Rackjobbing

Before examining non-specialists, we need to define rackjobbing, which is the sale by record producers to specialists, or rackjobbers, who are then responsible for management of record departments for non-specialists. That is the principle, but in fact they also supply their own points of sale. This method of distribution is very widespread in the record industry.

Rackjobbers are responsible for nearly 20 % of record distribution in France, in particular via the intermediary of the Cogedep, DCG and SDO. In this way they are responsible for stock management of about half the hypermarkets in France, or a very large part of what are called popular stores, as well as many supermarkets.

In Belgium, they represent 11 % of record distribution, with the Sonica company supplying about 200 points of sale.

In Germany their market share is 30 % and in Great Britain (where, for example, they supply Woolworth's), 28 %.

The new British chain MVC, which has a very aggressive price policy, belongs to Kingfisher, which also owns Woolworth's and the leading wholesaler in Great Britain, Entertainment UK, which also supplies 3,000 non-specialist points of sale such as supermarkets (Asda, Tesco and Safeway) and petrol stations.

In Portugal Movieplay has about 20 % of the market and plans to expand.

In Holland the wholesaler Discourier owns the chain of 36 stores, Music Store; Ear and Eye have 44 stores and Rigo Rotunde 20 stores grouped under the name Music House.

In Spain they have achieved over 20 % with Disclub Amat, Musical 1, Oriran Musical and Discoplay. In Italy regional wholesalers, rather than rackjobbers, are to be found.

In fact, whether or not they are responsible for stock management, these rackjobbers - and to some extent wholesalers- are more and more often likely to :

1. Supply small shops whose turnover is too low to justify direct dealings with the record producer.
2. Create their own retail stores to capitalise on their knowledge of end sales. This is the case in France with DCG and Madison, Sonica with Metrophone in Belgium, Disclub Amat and Gong in Spain - which is the reason for these details

II GENERAL STORES

These represent a large share in record distribution : however, in general, records only represent 0.5 % to 2 % of turnover for these outlets, of which there are several types :

Firstly, there are the large food retailers : hypermarkets and supermarkets. Their share in record sales is often the result of their location. It is not, therefore, surprising to find that their share of the market is greatest in areas where there is the highest concentration of hypermarkets : this is the case in France (1,000 hypermarkets, as in Germany). But in Germany independent record dealers and chains have regrouped more rapidly than in France, and have therefore been in a much better position to withstand this type of distribution. Moreover, German hypermarkets are themselves less successful than those in France.

In fact the main European markets are currently seeing an increase in record sales in both hypermarkets (Spain, Portugal, France and Germany to some extent) and supermarkets (showing very strong improvement in Great Britain) - the only difference between the two being sales surface area.

2-1) Hypermarkets

It is, therefore, in France that hypermarkets -a French invention now 30 years old- have achieved the highest sales performance, with over 50 % of sales by volume and 2/3 for singles. Furthermore, it seems that after a slight drop, this figure has stabilised and even slightly increased in recent months. There is a specific characteristic here in the nature of stock held, with thousands of items accounting for only 1% of turnover, whilst in food, their main activity, 50 % of turnover is achieved with 8,000 stock items. This leads them to reduce the number of stock items, in the interests of stock management, sometimes to as little as 200 and often to just 1,000 items.

This is exaggerated by the perverse effect of best sales rankings, which lead them to stock the best-selling items only, which account for most of their turnover. These stores therefore tend to limit the choice available to consumers, who do not anyway go to them with the express intention of buying records, but buy them because they are there (impulse buying).

They are absolutely not, therefore, representative of the record market, their strategy also being to use records as loss-leaders to attract young consumers.

This policy has consequences which affect the very structure of the market, since price markdown problems have meant that for the last 10 years cassette sales have not increased in France. In the eighties many hypermarkets refused to stock them, for this reason.

Apart from in France and Spain, hypermarkets have not achieved significant shares in the market.

It is interesting to note that the main development of hypermarkets in Southern Europe has been by companies from the country in which they originated - France.

In fact, faced by restrictive legislative measures stopping their expansion within France, the companies concerned have concentrated their efforts outside the country.

So records, treated as loss-leaders by this type of distribution, are exported using the same method : Carrefour now has an overall turnover of 150 billion francs (all products) in 259 stores as of 31st August 1996, including 117 in France, 51 in Spain, 5 in Italy and 2 in Portugal, the rest being situated in Latin America and Asia. In total it has stores in 13 countries. In France, Carrefour easily has 10 % of the record market, and it has achieved a significant share in Spain.

During the last few years there have been some developments in the concept of selling CDs in hypermarkets : for example on 1st July 1996 Leclerc had 15 cultural centres, situated outside the hypermarket itself in the shopping centre alongside it. The aim is to open 10 of these centres a year, which will be presented as stores in themselves, with up to 30,000 stock items in records. Note that by this means it is possible to increase the size of other departments without the need for authorisation, which is difficult to obtain. Leclerc holds over 10 % of the French market, for hypermarkets and supermarkets combined : its hypermarkets are on average much smaller than those of its competitors.

It is difficult to know how many of its stores sell records, since many of them get their supplies from wholesalers. However, there are over 300 Leclerc hypermarkets in France, where it is the leader : international development does not seem to be a priority for this company. This is also the case with Casino (100 stores, 3 % of the market) and Cora, 3% and 55 stores.

The Continent sign (Promodès group) is today represented in 11 countries, 6 of them in Europe, with 84 stores in France, 42 in Spain (Continente), 8 in Portugal, 12 in Italy and 5 in Greece. It has just sold its 36 German stores. It has a 5 % share of the French market.

Finally, the Auchan company, present in 8 countries, has 52 stores in France, 24 in Spain (called Alcampo) and 4 in Italy, from a total of 81 stores. Note that this company has just acquired control of Docks de France (Mammouth) which will enable it to attain over 8 % of the record market in France and, with "laser spaces ", to pursue the same type of policy as Leclerc. It has also bought the leading Portuguese chain of hypermarkets " Jumbo "(11 out of the 50 in that country).

Note that Spain has become a battleground for exports by French companies, with over 110 hypermarkets - the greater part of this distribution channel.

Hypermarkets are also important in Sweden, with over 20 % of the market. They have under 12 % in Belgium. They are making progress in Italy, with chains Rinascente, Euromercato, Ochan, etc.

In all cases, and especially in France and Spain, it appears that hypermarket pressure on prices is destabilising the record market. In Spain, for example, prices fell by about 15 % between 1991 and 1993 due to pressure from hypermarkets, who now have 15 % of the Spanish market. In France hypermarkets have the altogether exceptional figure (compared with other countries) of over 50 % of the French market.

2-2)- Supermarkets

Perhaps the most striking phenomenon of the recent progress of the market in Great Britain has been the explosion in the number of supermarkets which have introduced a record section. This figure is estimated at 900 for all chains. Although they have not yet achieved a very high share of the market (less than 6 %) they are behind the increase in the number of points of sale for recorded music, which has increased from 4,250 in 1994 to 4,550 in 1995.

It is mainly chains such as Tesco, Safeway, Sainsbury (Savacentre) who have increased the number of stores selling records, whilst Asda, with 200 stores and 4 % of the album market, has sold records in this way for the longest period - since 1987. Tesco has about 500 stores, of which 350 sell records, since 1994.

In any case, it appears that the increase in the supermarkets' share of the market is taking place at the expense of general stores such as WH Smith and Woolworth's, whilst the multi-specialists continue to make progress in this country. Note that Tesco has plans to expand in France (it already has over 15 stores) and that it is possible that records will be included in its long-term strategy.

Supermarkets and popular stores have a much weaker position in other countries : in France these stores are supplied by wholesalers and belong to large groups (Monoprix and Prisunic to Galeries Lafayette and Pinault Printemps respectively). Their share is less than 3-4 %. Similarly in Italy, where Standa stores are supplied by wholesalers.

Supermarkets seem to be gaining from the development of hypermarkets. It should be remembered that chains apply the same methods, in smaller areas, which however are often over 1,000 m², with hypermarkets having an area greater than 2,500 m².

In Denmark chains like FDB and Danish Supermarket practise a loss-leader policy which does enormous damage to independent dealers.

2-3)- Big stores

Here we find links with the commercial fabric in each country. In Great Britain, for instance, sales by these stores are over 30 %, the main contributors being WH Smith, Woolworth's, Menzies and Boots.

Here we must mention WH Smith, who, if we add together 50 % of Virgin Stores, the Our Price chain and its own stores, is the parent company of 30 % of record distribution in Great Britain. Under the sign WH Smith, there are over 300 "high street shops", specialising in books, newspapers, magazines and recorded music, with most branches having a record department. In total, the WH Smith sign has about 10 % of the market.

Woolworth's, another heavyweight in this type of distribution in Great Britain, is a chain of "multiples" (775 stores) with 18 % of the market and 25 % in singles. Woolworth's is a subsidiary of the Kingfisher group, very influential in distribution in Great Britain.

Amongst rackjobbers, Terry Blood supplies Menzies (150 stores) - 3 % of the market and Boots, the chemists, with 3 % and 210 stores (figures falling).

In France, the large stores are far less powerful, and although leading Paris stores, Galeries Lafayette and Printemps have tried to improve their record department, the same does not necessarily apply in the provinces. Supply is often through the

rackjobber. Whatever the reason, this type of store represents around 3 % of record distribution in France, which is very low.

On the other hand, in Spain, El Corte Ingles is a chain which represents about 40 % of the Iberian market, selling a multitude of goods and dominating the Spanish record market. Although they cannot be considered as specialists, they play an important part in record distribution, due to their dynamic position.

In addition, this chain, which had about thirty stores, has doubled this figure to 62 stores at the end of 95 by acquiring its main competitor Galerias Preciados. Faced with competition due to FNAC expansion, the leading Spanish distributor (turnover 40 billion francs) has just opened some stores specialising in books, videos and records. FNAC in rue Preciados, Madrid, will be surrounded by no less than 3 specialist El Corte Ingles stores In Italy, big stores have quite a large share of the market. The same applies in Sweden, where the Ahlens stores, with over 70 points of sale, have 20 % of the market. In Holland big stores V&D have 10 % of the record market with 61 stores. The other big chain is De Bijenkorf.

Still in Holland, big stores are responsible for 20 % of record sales. This is a tradition in Northern European countries, since Belgium is also well represented, as well as Germany, of course.

In fact, about 30 % of record distribution in Germany is achieved by big stores like Kardstadt and Kaufhof, which do not specialise in records.

This is why numerous observers say that record distribution in Germany is under-developed because of the large share held by these big stores. Kandstadt, for instance, (with Hertie) is the leader in record sales with 10% of the market. Kaufhof have about 7 % (Metro group), and other chains such as Kaufhalle, Horten bring the overall total to about 1/3 of the German market. Their stores, which are very traditional, often have aggressive pricing policies. In Finland, the 31 big Antilla play a significant role in the market.

Traditionally there are a certain number of other distribution channels which sell records:

- petrol stations in many countries have, for a long time, sold cassettes and now CDs, though with an extremely limited selection. Though their share of the market is negligible, it should be noted that a large number points of sale are involved (Italy, Great Britain, France, Germany, etc.)
- there are also some electrical, hi-fi and music shops which sell records as a sideline. However, since record sales tend to be concentrated around either general stores offering low prices, or specialist stores offering extensive choice, this type of non-specialised outlet is experiencing a continual reduction in sales. In Italy, however, news-stands still have quite a large share in the market, due to a reduction in VAT applicable to sales of CDs with magazines - here there is a selection of titles which have the benefit of publicity campaigns. In Holland hi-fi and electronics stores have over 15 % of the market, and in Denmark the Selandia Radio and TV chain has 22 stores.

Finally, it is, of course, impossible to give a complete description of the marketing structure in all European countries, but as we have seen, there is considerable disparity between these states.

CONCLUSIONS

Before trying to draw conclusions on possible developments in record distribution in Europe, it may perhaps be interesting to summarise the main characteristics of the different markets :

1-Characteristics of principal markets

1. In Great Britain one chain, under several names, is responsible for 30 % of the market, and 75 % of the market is achieved by 7 big chains (Woolworth's, Boots, Menzies, WH Smith as non-specialists and Our Price, Virgin and HMV for the specialists) and where, it is said, Oxford St in London is responsible for 6 % of the total of the 4,500 British points of sale.
2. Germany had 15,000 record dealers 20 years ago and has maybe 9,000 today, of which 700 are independent record dealers. There is no dominant chain, apart from WOM and the arrival of HMV and Virgin.
3. Holland has a fairly high proportion of specialists (over 1,000 points of sale) and one rapidly expanding chain (Free Record Shop) with more than 120 stores.
4. In France 75 % of the market is dominated by 2 types of store operating at reduced margins : FNAC with 23 % and hypermarkets 50 % , which is the distinctive feature of this market, which has only 400 record dealers.
5. In Belgium independent record dealers are still doing well, with 40 % of the market.
6. Italy has 3,000 points of sale of which 5 % do rentals, and where numerous sales are lost to the national market via newspaper stands and newsagents. There are about 1,000 record dealers and 500 big stores, but big problems with distribution.
7. In Spain the big stores dominate the market, with some specialists doing very well : 50 % of the market is represented by the big stores and one mail order company, but hypermarkets are making rapid progress.

The economies of these 7 countries, which are responsible for 1/3 of the world market and over 90 % of sales in the 15 countries of the European Union, will be viewed even more closely in the future. What will the consequences be for the record market ?

In fact, there is already something of a contradiction between record distribution as described above, which appears to have strong national characteristics, and record buying, for which Europe - and even the world - is a reality. It is the very same records which are being bought, more and more often at the same time !!!

On the other hand, new prospects should open in Eastern Europe, even though buying power is, for the time being, extremely restricted. Also, the arrival of western distributors to take over run-down state stores may be one of the solutions to the huge problem of piracy, which a reunited Germany must now face up to, and which is likely to become even more difficult to curb as these countries build their own factories.

Finally, faced with a slowing down in demand, observed in many markets, Sunday opening of points of sale is possibly an answer to falling record sales, and one of the only ways of achieving an increase in sales. This would give buyers who no longer have neighbourhood points of sale the time to get to a store further away.

At European level, unification of the law will not be simple. In Ireland, Portugal and Belgium, freedom is the rule, whilst there is a ban Germany, Greece and the Netherlands. In France , Great Britain and Italy, there is a ban in principle but exemptions are possible.

Even Saturday trading poses problems, since in Germany and Denmark stores close in the afternoon, though things are beginning to change. In Spain, the law has been tightened.

In fact, there is not just one music market : there are three divisions - classical, Anglo-American music - frequently in high proportions (about 50 %) and local music, which varies in importance according to the country, but seems to be on the increase. Therefore entirely centralised stock management, which is one of the reasons for wanting to establish an international set-up, is not likely to happen tomorrow. Whatever the efforts made by some to try to impose a single European culture, the existing commercial fabric and specific characteristics of each country will slow down unification of record distribution in Europe.

2-Overall conclusions

There are a certain number of common points which apply throughout Europe :

- Difficulties for big names in distribution in setting up outside their own countries, although some trends towards internationalisation seem stronger than they were a few years ago.
- The disappearance of the traditional independent record dealer seems to be an irreversible trend, although a certain number are resisting this ...
- The appearance of multi-cultural names, which is the outstanding feature at present. Whether major chains like Virgin or FNAC, or groups of independent dealers, the record and video shop has lasted a long time. In fact the new chains, as well as existing ones, are choosing to diversify, whilst keeping a special place for the record, which varies between 25 % and 70 % depending on the concept
- Adapting to different national laws sometimes entails differences in behaviour within the same company (FNAC open on Sundays - in Madrid, like Tower and the big London chains, as well as Virgin in Paris and Milan). Everywhere, specialist distributors are fighting for longer opening hours, wanting their stores to be places with some life (with cafés, for example) instead of simply points of sale.
- The expansion in the market share held by hypermarkets in France, Portugal and Spain has taken place alongside their development in distribution in these countries. This is especially the case in Spain, where hypermarkets had only a small share 10 years ago, and now hold 1/6 of the market.
- The importance of local laws in relation to development. As well as the effects on big French names in distribution forced to move outside the country, and now dominating the Spanish market, the failure of FNAC and Virgin in Berlin can be attributed to the rigidity of German opening hours. A modification to the law, which will come into force in November 1996 may encourage the return of foreign companies. From then on the stores will be able to stay open until 16h00 every Saturday (instead of one a month) and 20h00 in the week (instead of just Thursday). This measure should be to the advantage of the specialists as well as leisure / culture businesses, to the extent that limited hours tend to be used for the purchase of goods considered essential.
- The cautious arrival of the Americans in Europe : opening of the first Tower Records stores in Great Britain, alliance of Blockbuster - video leader in the United States -

with local partners in Germany or Spain with the aim of opening record and video stores.

- The development of discount marketing, which is doing great harm to specialist points of sale, with records being used everywhere as a loss leader (and not just in France...).

3-The future of record distribution in Europe

A certain number of non-specialist companies will take an interest in records, either because they are dealing with culture specialists wanting to extend their range, or non-specialists wanting to increase their market share with a "product" which is quite easy to sell, thanks especially to best-sellers.

Another change is, of course, linked to a modification in music buying. However, attempts to sell music on demand (Personics and IBM/Blockbuster) have, for the moment, resulted in failure. Techniques are sure to evolve and become simpler.

The network of networks (Internet) will, without a doubt, continue its extraordinary growth, and a title which takes 5 minutes to load onto your computer today will take no time at all in 3 years from now (maybe less).

However, physical distribution cannot be eliminated, for the following reasons :

- attachment to the object, perhaps stronger in Southern Europe, linked to the weakness of cabled networks in these countries, which will delay the explosion in on-demand services
- the impact of price per use or downloading price, which cannot only be symbolic, whilst a record is bought once and for all
- the necessity to possess or have access to a computer equipped with a modem for downloading : even if the technique is no barrier to young people, CD and cassette players will remain much cheaper than computer equipment for a long time yet. Moreover, the terminal will need to be situated in their bedroom.

It should also be noted that some very high investments are currently being made by several distribution companies.

Record distribution in Europe is still a juxtaposition of European distributions. However, it is certain that before too long we will see multi-currency price labels appearing on products, as is already the case in the clothes sector and others. Paradoxically, the creation of a Euro-currency may not be to the advantage of centralised stock management, unless a unified European price is wanted, which could be tempting for some chains which are well established at European level, but dangerous in the case of competitors with a more aggressive pricing policy.

The real question to be answered is whether we want to encourage a single mass culture (the same records listened to and bought at the same time in the same stores) or whether we want to encourage what has, in fact, given this continent its richness : records which are mostly different in different stores ... !

2-B Piracy and parallel imports in the European Union

I. PIRACY

Introduction

Music piracy in the EU has three angles. First, there is production and sale of pirated recordings inside the European Union, damaging the interests of all parties involved in the production of music. Second, there is production of pirated recordings in third countries, which are subsequently exported to the EU. And, finally, there is production and sale of illegitimate recordings in third countries, which causes damage to the economic interests of the European music industry abroad.

Inside the Community

Five Member-States are of great concern as far as production and sale pirated sound recordings inside the Community are concerned: from the 15 Member-States, **Italy** and **Greece** have the highest level of piracy, **Luxembourg** has become Europe's centre of storage, transit and distribution (directly and through mail order) of pirate CDs and so-called bootlegs and **Germany** and **Austria** both host pressing plants where pirated CDs are manufactured.

Piracy in Italy and Greece remains a great problem nowadays mainly because of slow and inefficient court proceedings and undetering penalties. In Luxembourg, however, the music pirates have found a safe haven because of inadequate copyright legislation. Luxembourg has not yet implemented the EU copyright directives and the provisions of the WTO TRIPs Agreement although the deadlines for implementation have long passed. As a result, most sound recordings are not at all protected in Luxembourg and the music industry has no tools to fight the ongoing trade of illegitimate recordings through Luxembourg based pirate companies.

The Commission has the competence to ensure the proper implementation of the Community copyright directives. Therefore, the music industry calls on the Commission to take a firm stance against those Member-States, which have not yet implemented these directives or which have implemented them wrongly.

Third countries

Apart from the production inside the EU referred to above, most pirated sound recordings, which are exported to the EU, are produced in countries with which the EU has close ties, such as the **Czech Republic**, **Switzerland**, **Israel**, **Bulgaria**, **Taiwan**, the **USA** and **China**. The repertoire of the European music industry is also pirated and sold in countries such as **Russia**, **Thailand** and **Mexico**.

Vis-à-vis third countries the EU has various means at its disposal to bring pressure to bear in order to curb the piracy problem. It can use the various bilateral agreements and WTO or EU accession negotiations as a framework to press for better copyright legislation, more efficient enforcement and enhanced border controls. It can initiate dispute settlement proceedings at the WTO against third countries for violation of the TRIPs Agreement and it can act upon complaints brought by the Community (music) industry under the Trade Barrier Regulation.

II. PARALLEL IMPORTS

Introduction

Some importers and distributors make a business out of importing CDs into various Member-States of the EU, taking advantage of currency fluctuations and lower prices in some third countries (for example USA and Canada). These CDs, which are most often sold to the consumer at exactly the same or even a higher price, directly compete with the locally (EU) manufactured recordings, take a free ride on the extensive marketing and promotion efforts and investments of the local record companies and are most often not subject to full mechanical reproduction royalty payment to songwriters and composers.

Legal and factual background

The European Union is culturally very diversified with its 15 Member-States and 10 official languages. Its music and the European recording industry are equally diversified. Each Member-State has its local artists, signed to the local affiliates of the international record companies, singing in their local language and rarely enjoying popularity beyond their national borders. In order to serve the various tastes of the public in all the Member-States, the recording industry is obliged to operate locally and is often driven to finance the production of local artists with the profits made through the sale of big international successes. It is these international top hits that are mostly parallel imported, thus taking away part of the main source of guaranteed income for the local record companies, which would otherwise be invested to support less successful national artists and niche products.

In 1992, The EU provided performing artists and phonogram producers with an exclusive distribution right through the well-known Rental Directive. This distribution right is subject to the principle of Community exhaustion, which means that the distribution right vis-à-vis a given sound carrier cannot be exercised to prevent its further distribution within the EU, provided that this specific sound carrier has been first put on the market within the Community by or with the consent of the rightholder. Therefore, if a sound carrier is first put into circulation outside the EU, the exclusive distribution right within the Community is not exhausted and can, as a result, still be exercised to prevent the import and distribution of that sound carrier within the EU. The Community legislator's objective when drafting these provisions was to protect the music industry in Europe against parallel imports from outside the EU.

Unfortunately, some Member-States have not yet implemented these provisions of the Rental Directive (for example Luxembourg), others have implemented the distribution right in such a manner that not all recordings are protected (for example Denmark and Sweden), whereas in the remaining Member-States all recordings are protected (for example the Netherlands and France). This totally disrupts the creation of one single market for the distribution of recordings and leaves the door of many a Member-State open for parallel imports. Sound carriers can enter the Community through some Member-States, where there is insufficient protection, and their further distribution can then be prevented in other Member-States, which is exactly what European harmonisation of legislation aims to avoid.

Conclusion

The EU should ensure, therefore, that all Member-States provide for an exclusive distribution right for all rightholders, applicable to all sound recordings, irrespective of their origin, and subject only to a uniformly interpreted Community exhaustion principle.

1 THE SOCIAL AND CULTURAL VOCATION OF THE RECORD

The record is a cultural commodity, a product unlike any other

Records, as books, are a cultural commodity.

As the book is the vehicle for literature, the record is the main vehicle for music.

As such, the record is a specific commodity: it is chosen not as an object, but rather for its content and emotional impact and value.

Although it is not one of life's essentials, the record is, however, a vehicle for knowledge, discovery and culture and as such should be made available to all.

Unique and non-substitutable, the record has the patrimonial and testimonial character of a cultural commodity: never becoming outdated, its vocation is to cross the threshold of time and bear witness for the future.

Music: an essential social and cultural role

Unlike the book, the recording is a relatively recent invention, although one which is deeply rooted in contemporary society and in its cultural vocation.

Thanks to the record, an ever-increasing number of people have access to musical culture in, what was until now, unheard of conditions. This is not the result of fashion or chance, but rather an event of a social order.

The fundamental medium for music, the record is, moreover, the vehicle for all its different versions and interpretations, each one being an original creation.

The considerable number of musical, literary and cultural works made available by the record to the masses have become, in our century, a primordial vehicle for knowledge.

Like the book, the record now penetrates all layers of the population. National and municipal libraries together with community centres are collaborating with record libraries and record clubs are starting to form.

The record has a preponderant influence over today's young people for whom it represents a means of distraction and escape. In this respect, neither popular music nor song should be underestimated, as they express the aspirations of an epoch and are profoundly integrated into the life of today's men and women.

Music accounts for the better part of young people's leisure time. Three in four live in a home possessing a hifi system, two in three own a walkman and all or practically all listen to music to forget their problems and discover new horizons (a mere 6% never listen to music), while one in two listen to music on a daily basis, reflecting the intense rapport that the 15-24 year age group have with music.

The record is the natural and rich continuity of the written word. The difference in approach to these two means of communication clearly reflects the extent to which music is discriminated against, which is in no way justifiable.

The purchase of cultural commodities is a purchase unlike the others

The consumption of cultural commodities is unlike any other: it has a specific dimension, creating indicators and providing references to a society; it expresses the state of mind of a population and reveals its aspirations.

This consumption should be encouraged so as not to become elitist and hence marginal; so as not to concentrate on the events of the year alone, backed up by advertising and the media so as not to be deprived of the diversity and innovation of an epoch.

The vast choice proposed by the record catalogue today (more than 150,000 record and cassette references), reflects the variety of musical creations, just as literary publications illustrate that of the written word.

It is this that sets cultural commodities apart from all other consumer products.

No distinction should be made between cultural commodities in function of their mode of consumption: books, records, films, plays, concerts and museums are all goods and services of the same nature, whose common vocation is entertainment, knowledge and thus culture.

A cultural and hence specific industry

In the era of the cable, satellite and the multimedia, art needs to be widely diffused. The media for this diffusion play a vital role, not only in the propagation of culture, but also in the development of the economy. Technological developments have rapidly contributed to speeding up the evolution of the notion: an objet d'art is unique and cannot be reproduced.

Cultural industries, especially those linked to creation and diffusion, are unlike any other. Naturally, they are most often confronted with the difficulties and sanctions of market mechanisms, and as all businesses, they seek profitability, or at least balanced accounts.

However, in many cases, it is impossible to apply the usual industrial and commercial business criteria: as specific industries, they produce specific goods.

Both books and records are manufactured in large quantities. Nonetheless, they possess a characteristic which clearly differentiates them from the car or the washing machine: they are the manifestation of a cultural creation in the form of goods.

This characteristic has numerous consequences on the economy of the sector and on business management.

The economics of culture, therefore, require reasoning, analyses and insight, implicit parts of its very structure.

The development of the music industry, in the same way as that of the book or movie industry, needs to be handled in a specific way.

2 FRANCE: THE RECORD MARKET

FRANCE : 5TH WORLD MARKET

With 6.1% of world sales realizing some 160 billion francs in 1993, the global music market in France corresponds to a sales turnover of approximately 10 billion francs.

80 million CD's were sold in 1993, 29 million cassettes and 20 million short formats (2-title CDs/2-title cassettes)

CONSUMPTION: A POTENTIAL TO BE EXPLOITED

The portion of the individual budget devoted in France to music remains small-scale: 0.24% in France per inhabitant against 0.31% in Great Britain, 0.28% in Germany and 0.34% in Holland. There is real development potential for the recorded music market in France; what is more, only 50% of hifi owners possess CD players.

When the Germans, the British or the Dutch buy 2.3 albums per year, the French buy 2; this figure masks a constant drop until 1987 (1 album/year/individual that year), followed by a progression and near stability from 1990.

The music market's primary target: young people, for whom music is their leading leisure time activity.

Three-quarters of the under 25's listen to records or cassettes one day in two, while 50% listen to music every day.

With age, the rate of listening lowers: beyond 45 years, less than 10% of the population listens to recorded music on a daily basis.

This massive proportion of the young population corresponds to the profile of the record buyer (1993 Ipsos survey):

The 15-34 year age group, i.e. 37% of the population over 15 years of age represents close to 60% of record and cassette buyers.

FRENCH MUSIC: A LOCAL MARKET TO BE PROTECTED

The French market is characterised by two apparently contradictory trends: a high proportion of local market sales together with a broad opening to foreign productions.

In fact, and this is particular to France, the light music genre accounts for close to 50% of all French recording sales.

Nevertheless, the years 1990 and 1992 were marked by a substantial and worrying decline in this share of French-speaking music productions. This trend is at the origin of genuine concerting between all the music professionals, resulting in the implementation of concrete measures.

Although Anglo-Saxon music, massively relayed by the media and more especially by the large FM networks has, these last few years, masked the development and diversity of French musical creation, it is, nevertheless, flourishing and progressing on foreign markets. Its diffusion remains the profession's priority objective.

AN ATYPICAL DISTRIBUTION OWING TO THE PREDOMINANT POSITION OF HYPERMARKETS

Owing to the structure of its commercial fabric, France is in a unique situation in Europe. In fact, the hypermarket, which is a French invention, or more exactly the successful adaptation, early in the 1960's, of an American sales system, has very rapidly obtained a preponderant share in the distribution of consumer products, today obtaining 50% of record sales in France.

To win over a young clientele, hypermarkets have very quickly developed record departments selling at discount prices, offering a very limited selection with a very rapid rotation rate. To avoid managing stocks, hypermarkets concentrate on only a small number of references.

Today, with 1,000 hypermarkets, this channel of distribution exceeds 50% of record sales, while hypermarkets obtain less than 1% of their total sales with records.

The current trend is towards a new reduction in the number of references proposed to the public.

A hypermarket offers on average 5,000 references, a supermarket 700, a traditional record store 10 to 20,000 and a specialist belonging to a chain, more than 150,000 references (Virgin - Fnac).

Surveys show, however, the consumer's attachment, in particular the young consumer, to specialised chains, these being primarily FNAC and Virgin Megastore, which have a 90% plebiscite owing to choice, but which remain relatively far from the consumer's home. Incontestably, it is the relatively low number of installations in France that blocks their development, which should be remedied by the measures we are recommending.

The primary victims of the development of mass marketing and the present economic trends are the record shops, which, 20 years ago, numbered 3,000, while today only 250 remain, representing less than 10% of sales. A good number of them owe their survival to specialising in specific musical genres: jazz, classical...

The most remarkable phenomenon observed these last few years has been the development of the specialist chains, which largely exceed 30% of record sales in France. The latter, numbering approximately 250 in France, offer a large selection.

Insofar as concerns shops, the sale of records is especially concentrated; the seven largest shops realize 18% of sales. Some thirty shops combined exceed one-third of market sales.

3 IN FAVOUR OF A LOWER VAT RATE ON RECORDS

3-1 - GENERAL OBSERVATIONS

The State, which assumes a general mission of an intellectual order, has acknowledged the need to go beyond the traditional policy of public instruction, and considerably broaden its action in the cultural area.

Taxation, which encourages without restricting and orienting the activities and consumption, is a choice instrument for this action. Thus, in principle, VAT's vocation is to be levied on all goods and services but without this tax losing sight of the destination of said goods and services and their social utility.

This cultural policy marks a constant progression in the order of historical necessities, and it has successively addressed the press, the book, the theatre and the cinema. Does not the record, in essence, deserve to benefit from an identical consideration?

The exercising of cultural activities, which are neither purely intellectual nor immaterial, require media which implies the acquisition and use of suitable goods and services whereby thought can be transmitted and communicated and which should evolve with technology.

3-2 - THE DISASTROUS ECONOMIC CONSEQUENCES OF HEAVY TAXATION ON RECORDINGS

It is wrong to treat the record industry like any other. The profitability of a repertoire is not the only factor taken into consideration by record companies. Certain record company catalogues include numerous titles (e.g.: classical titles). Although their sales are not lucrative, their presence is considered as indispensable from a cultural point of view.

The retail sale price, inflated by excessive taxes, causes the consumer to reduce his record and cassette purchases. Moreover, it encourages the purchase of pirate copies, because taxes increase the difference between the legitimate and the pirate product, on which no tax is paid and no beneficiary remunerated. Thus, not only are the legitimate producers affected directly by the pirates, but the State is deprived of income. Moreover, the excessive price of records encourages consumers to borrow records and cassettes in view of copying them or recording music off the radio. Sales of blank cassettes are twice as high as pre-recorded ones.

Piracy and private copies are activities which weigh heavily on this sector. An excessive VAT rate can only encourage these activities.

Technical progress should not have a recessive effect on culture; on the contrary, it should put all the power of these innovations at its service.

This is what the record industry has done, whose boom has not been restricted solely to the musical area (classical and light music), but extends to a vast number of literary and poetic works, classical and modern theatre, encyclopedias and instruction in a wide variety of subjects.

Record production is important in the European Union, both from the economic and cultural points of view.

Consequently, it is difficult to understand what the future holds in store for the record, in France as in Europe: the cultural character of the record was officially recognised in 1972 by the Unesco intergovernmental conference on the cultural policy in Europe, in a unanimously adopted resolution.

The European Communities Commission also recognised the cultural character of these products. As far back as 1977, the Commission, in its Bulletin entitled "Community action in the Cultural Sector" expressed the following opinion on the taxation of cultural commodities: "VAT is not neutral with regard to culture. By increasing the cost of cultural commodities, it inhibits the same distribution from which it could benefit" and added "if cultural commodities are subjected to VAT, its impact should at least be maintained within reasonable limits". The Commission reaffirmed its position in its paper to the Parliament and the Council entitled "The strengthening of Community action in the cultural sector".

In this document, the Commission recommends that, in the cultural sector, the harmonisation of taxation should pursue three objectives:

- a more indulgent tax system for cultural foundations and sponsoring
- staggering the income tax of cultural workers over several years
- and lower VAT rates on cultural services and products.

The resolution of the European Parliament adopted on this document of 18 November 1983, followed along the same lines.

Although nobody will deny the fact that music, like literature, is part and parcel of cultural life, this fact is less than evident considering the taxation on recordings in European Community Member States.

The classification of recordings in the standard rate proposed by the Commission does not appear to have been the subject of deliberation but rather purely and simply confirms the current position of the majority of Member States.

While in all Member States, books and other publications benefit from a reduced or nil rate of taxation due to their cultural status, this would appear not to apply to recordings.

3-3- LOWER VAT - OVERALL TAX EFFECT

The analysis made over three years on the loss of tax income due to a lower VAT rate in France, indicates certain compensations that could come into play, making this a low-cost operation for the State.

3-3-A Moderate direct tax effect

The evolution in VAT income in the event of the rate remaining at its current rate then on the assumption of it being lowered to 5.5%.

If the VAT rate does not change:

In view of the difficult economic trend and the major uncertainties which, at short term, weigh heavily on the evolution of the record (private copy, piracy, competition from video games, development of the multimedia), etc.), it can be considered that the market will progress by about 3% per annum.

If the VAT rate is lowered to 5.5%:

a - Effects on sales

The professionals in the sector undertake to pass on fully this decrease. Record companies undertake not to increase their wholesale price for a significant period of time.

With a 5.5% VAT rate, the great majority of albums could be retailed at under 15.5 Ecus: the record would become fully accessible, notably to its preferred public: the young, accompanied by an increase in sales.

How is the market going to evolve? An Example: The French Market

This time, even though, after the drop in December 1987 in France, the market progressed 35% in 1988, 30% in 1989 and 10% in 1990, the people in the trade are banking on a 58% cumulative progression of sales over 3 years; they are taking into account a more difficult economic trend and an attenuated "compact" effect, despite its importance (the CD progressed 9% in 1994).

Thus, the cumulative increase could reach 58% over 3 years, as compared to 91% due to the previous drop in VAT.

b - The 1988/1989 experience

The 1988/1989 experience shows that the drop in VAT was passed on by the retailers, with an 8% decrease in record prices, as noted by INSEE, and remained stable over the next 3 years. At the same time, total sales progressed 74% over two years, 91% over 3 years and doubled from 1987 to 1991! Thus, it is clear that the hypotheses adopted, i.e. 58% cumulated over 3 years, are extremely reasonable and realistic.

(*) Source INSEE	Evolution in record prices	Evolution in sales	Evolution in cumulated sales
1988	- 8 %	+ 35,7 %	+ 35 %
1989	- 0,5 %	+ 29,0 %	+ 74 %
1990	- 0,5 %	+ 9,9 %	+ 91 %
1991	+ 1 %	+ 4,6 %	+ 100 %

c - Elasticity

The December 1987 drop in VAT resulted in an immediate increase in sales per inhabitant greater than the decrease; elasticity was therefore extremely substantial. Moreover, this did not involve a compact disk effect, given that consumption per inhabitant stabilised as from 1990.

Moreover, the level reached is only slightly above that of 1981.

d - Other elements justifying these progressions

Compared to that of other countries, consumption per inhabitant remains fairly low => the existence in France of a consumption "potential" (1995 figures).

	CD PER INHABITANT
UNITED STATES	3,9
SWITZERLAND	3,7
HOLLAND	2,4
GREAT BRITAIN	3,4
GERMANY	2,6
FRANCE	2,2

Another point: % of music in expenditure (1993 figures)

	EXPENDITURE
GREAT BRITAIN	0,31 %
GERMANY	0,28 %
FRANCE	0,24 %

Here again, France is behind as compared to other comparable countries.

3-3-B A compensatory indirect tax effect

a - Income tax

Performers, authors and individuals receive royalties on the wholesale price of a record. Many of them are taxed at the maximum rate. Taking a weighted average of 50%, aware that additional income will be taxed at a higher rate, the additional tax receipts amount would increase. Moreover, the wagebill corresponding to some 10% of total sales will increase with it, and generate additional taxes.

Income tax collected by the States would therefore increase considerably.

b - Company tax

The increase in sales due to the drop in VAT would generate a higher marginal profit.
The increase in sales would, in the same way, generate a marginal profit for distributors.
Thus, company tax would increase.

c - Other effects

Other positive tax-induced effects exist: more recordings, hence a greater mass of taxes for musicians and studios, more marketing investments hence an increase in the taxable profits of the media, an increase in the taxable basis for the tax on fortunes for performers, etc. We have deliberately not taken these effects into account.

CONCLUSION

To conclude, a decrease of the VAT rate on the record would only induce slight fiscal loss, and this, for the following reasons:

- total sales highly sensitive to the average price, especially if it is under the 15.5 Ecus. The market is still far from being saturated: the consumer can easily purchase more records
- industry with correct profitability, the increase in total sales substantially augmenting the taxable profit
- industry redistributing a considerable share of its total sales to individuals who are heavily taxed on their income (or fortune)

III. VAT ON MUSICAL INSTRUMENTS

The argument for reducing the VAT rate on discs could be extended to musical instruments.

A musical instrument should indeed be considered, just like a disc, as a cultural good : it is the vehicle of a cultural tradition and identity, and is to be found in every stage of the educational process. For example, musical education in France reaches over 3.5 million young people through infant, primary and secondary schools, colleges and universities. In addition to this, specialist teaching (in conservatories, and in national, municipal and private schools of music) involves another 1 million pupils and teachers. The number of jobs in Europe related to the manufacture and distribution of musical instruments in Europe can be estimated at 30,000. However, with the exception of the manufacture of typical instruments such as the Spanish guitar and the Irish harp, the musical instrument manufacturing sector is in decline, the advantage going to the importation of musical instruments, especially from Japan.

Reducing the tax on musical instruments would not necessarily result in a loss of public revenue, since the volume of sales would increase almost automatically, compensating for the losses.

In the United Kingdom, where the tax on musical instruments was reduced from 55% in 1969 to 15% in 1986, revenue from the tax had increased more than 10 times in 1986. Similarly in France, after the reduction of VAT from 33,33% to 18,6%, sales increased by over 30% in 6 months. Inclusion of musical instruments in the ranks of cultural products presupposes the reduction of the VAT rate applied.

Such a reduction, permitting wider access to musical instruments and so to the practice of music, could bring greater stability to European society, especially in zones of social deprivation, and would strengthen Europe in its educational aims and its conception of the unification of its countries and peoples.

As early as 1988, the economic and social Committee of the European Communities pronounced in favour of the application of reduced levels of tax to all cultural goods. In addition to this encouragement to reduce VAT levels, which is very important to sales, it should also be noted that subsidies in the domain of musical instruments remain very limited in comparison with those granted to the development of new technologies, the cinema, the audio-visual sector and books.

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