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CHAPTER FOUR

Stories from Egypt's Music Industry: De Facto Commons as Alternatives to Copyright

Nagla Rizk*

This chapter offers a study of the Egyptian music industry from an alternative perspective. The mainstream discourse internationally as well as in Egypt regards music as a good that warrants maximal intellectual property protection; a goal achieved by formulating and enforcing ever tighter copyright controls. This logic implies that music is a private good, where markets are best optimized by the price mechanism, creators are motivated by the profits realized through unit sales, and free riding “pirates” must be punished to keep the incentives system intact. In this chapter I adopt a different approach. I start with the premise that music embodies some characteristics of a public good, where the market mechanism typically fails to maximize both production and access, and where tension arises between the interests of producers and consumers. Adopting a bottom-up empirical approach, I examine actual practices of music production and delivery as they exist on the ground, and explore existing business models that may more closely align with the interests of music creators and users.

The chapter draws on extensive fieldwork, including interviews with musicians and other stakeholders, a survey of the prevalent business models in popular and alternative music production and delivery, and a comparison of musicians' earnings from live performances versus copyrighted recordings. Drawing on these various data points, I seek to answer one central research question, namely, what business model(s) offers the optimal mix between access and contribution to musical content in a way that is most suitable

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to Egypt's social, cultural, economic and legal realities? Within that, two secondary questions are addressed:

- 1) What are the dynamics and interrelationships between grassroots practice of music on the one hand, and domestic policy formulation, implementation and enforcement on the other?
- 2) What is the relevance of copyright to the music production and distribution in Egypt, as opposed to the influence of prevailing social and cultural norms and economic realities?

In attempting to answer those questions, the chapter's content travels between the two worlds: the mainstream world where maximal intellectual property (IP) approaches are applied as part of the integration in the global order, and the parallel alternative world that finds for itself some space to act outside the scope and limitations of those maximal approaches.

Based upon this research, I conclude that models that maximize consumer access and musician's contribution to knowledge exist in parallel to the mainstream ones, irrespective of the formal IP regime, and sometimes regardless of the price mechanism itself. Ironically, this informal and naturally evolving chaos may end up maximizing public welfare without much need for domestic policy formulation or enforcement, and irrespective of the formal copyright system. Indeed, I argue that what is in essence a *de facto* commons model for music production and distribution does achieve the very objective of access to knowledge which Egypt is promoting on the global knowledge platform, but which is not always as evident in the country's domestic policy formulation. Accordingly, I call for Egyptian copyright policy to address the unique realities of the music industry in Egypt rather than to blindly implement a maximalist agenda that is imposed from the top down.

The chapter proceeds in four parts. I start by providing a conceptual framework for the analysis, which examines the trade-offs and tensions involved in approaches that treat music as either a public, private, or quasi-public good. I then move to the local scene, whereby I present the landscape of music practices as represented by the market structure and the main players in the mainstream realm. Third, I present an account of Egypt's alternative music scene, focusing on live performances as engrained in Egyptian culture, with accounts about outlets catering to it and the artists

representing it. I discuss illegal music copying in the context of Egypt's sociocultural, economic and legal realities, with perspectives from the record labels and from the artists themselves. I conclude by highlighting the relevance of Egypt's live scene to the country's music industry and discuss what this means for the relevance of copyright and policy formulation in the Egyptian context.

Conceptual framework

Music: a private, public or quasi-public good?

Like other knowledge goods, music evokes the question of the extent to which it can be considered a public good or a private one. A public good typically carries the characteristics of being non-rivalrous (one person's use does not preclude another person's utility) and non-excludable (people cannot be denied access). A classic example of a public good is a lighthouse. The construction of a lighthouse, warning incoming ships that they are near land, delivers benefits to multiple parties. The ships' crew and owners avoid crashing upon rocks, and the townspeople obtain more secure delivery of shipped goods. The lighthouse is a non-rivalrous good in that an infinite number of ships may benefit from its use without the good being "used up." It is also non-excludable in the sense that once the lighthouse is constructed and in operation, it is impossible – even if it were desirable – to prevent certain ships or certain townspeople from sharing in the benefits.

Moreover, adding an extra user has no effect on the cost of producing the lighthouse. Since adding extra users for the public good does not necessitate an additional cost, one can argue that universal access will typically be socially desirable as excluding people will mean sacrificing public welfare unnecessarily. Economic efficiency generally calls for pricing a good at its marginal cost of production – what it costs to produce one extra unit of the good to an additional consumer. In the case of public goods, however, the marginal cost of production is zero. The provision of a public good will therefore be unsustainable as a market practice, since no private entity will have the incentive to produce it. Public goods are therefore most efficiently provided by the government, which can provide the good universally yet still cover its costs by imposing a tax. This solves the potential free-rider problem wherein people would decline to pay for the utility they derive from a public good if not threatened with exclusion.

At its core, music is non-rivalrous. One person's enjoyment of a song does not take away from another's. This statement, however, becomes complex as music comes in different forms, the most common of which are: purely digital as downloaded and stored in a computer or another digital device, packaged in a tape or CD, or delivered via the live performance. The first form, i.e. music that is purely digital, is non-rivalrous and involves zero marginal cost of reproduction and distribution. The second form of music delivery, however, makes music rivalrous as the tape or the CD is a private good by definition (Romer 2002). That is part of the reasoning that considers music as a private good, as expectations have been shaped by a technological era in which music was experienced largely within a scarce physical commodity: the album. Finally, the live performance by a particular artist has an element of rivalry.¹ Especially for concerts in closed halls with a limit on space, there are costs to expanding the size of the audience, and for any one concert, each additional person creates additional cleanup costs. A second concert adds to the marginal cost.

Moreover, music is also unlike the pure public good in that it can be excludable. In contrast to the lighthouse, which shines for all, universal access to music may be prevented by imposing walls. These could be technical, in the case of a record album that cannot be easily reproduced, or a digital file with technical protection measures (TPMs) imposed; legal, in the case of intellectual property rules that forbid one musician to cover another artist's song or treat digital music sharing as piracy; or physical, in the case of a literal wall that blocks out members of the unpaying public or uninvited guests from a live performance.

Because excludability is possible, music fits the definition of a quasi-public good, where non-rivalry may be evident yet excludability is possible. The quasi-public nature of music and other knowledge goods complicates the economic efficiency analysis (Antonelli 2008, 85-88). An additional user may not add to the marginal cost, yet excludability will be maintained by imposing a price (AmosWEB 2009). As in the case with public goods,

1 In a sense the live music performance may be non-rivalrous, since one person's enjoyment does not take away from another's, except if one is placed in a spot where she is blocked by the person in front. The pricing of the concert tickets clearly makes it excludable. Free riding can still occur as people listen in to outdoor concerts from the neighboring surroundings (Lange 2009). For open air concerts, adding a user may not add to the marginal cost. In general, the possibility of non-rivalry and excludability qualify the live performance to be a quasi public good.

employing the market and price mechanism for quasi-public goods will still be inefficient. On the one hand, it is feasible to treat the good as a purely private one, charging for access; it is not, however, economically efficient to do so, from the perspective of maximizing social welfare. This reveals a trade-off between maximizing public welfare by expanding access, versus maximizing private incentives by limiting access.

Tensions and trade-offs

The unique characteristics of music place the industry at the heart of a trade-off between access and incentives. On the one hand, the essentially non-rivalrous nature of music at its core and the cost structure of its reproduction make a case for expanding *access* to users at an efficient price of zero, namely free access. This would address the interests of users and maximize their welfare. But this would also mean doing away with the *incentives* to produce music, it is argued, for who would be motivated to produce a good that has a zero price? If so, then expanding free access to music would arguably represent a disutility and welfare loss to music producers. Indeed, the argument goes, free access may be harmful to users as well since in the long run they would have access to less music and limited diversity (Romer 2002). This argument is presented as grounds supporting the case for maximalist IP protection of music, as strict intellectual property control ensures the excludability of music and secures incentives for music production to continue as a private good.

Such protection introduces a new form of disutility, however, namely monopolies created around knowledge goods, music in this case. As discussed in the first chapter of this volume, intellectual property protections do serve to create incentives for the production of knowledge goods, but at a cost. By creating an exclusive right to control the production and distribution of a particular good, IP-based incentives create new market-distorting dynamics. Without competition to drive down prices, IP rightsholders are able to set high prices. Monopoly rents accrued by the excess of the monopoly price over the marginal cost must be counted as a source of economic inefficiency, implying a loss in consumer welfare and a deadweight loss to society (Romer 2002).

The cost structure of producing digital music adds another dimension to the argument. Like other knowledge-embedded goods, digital goods carry a unique cost structure: high cost of production yet next to zero marginal cost

of reproduction and distribution.² This expands the potential for economies of scale that benefit from uncostly mass reproduction and distribution, capitalizing on positive externalities gained through distribution via digital networks. This in turn provides for larger monopoly rents acquired through private production and distribution of music. While the private model is justified by the producers' need to recoup the high initial costs through exploiting the excludability of the knowledge good, such monopolies still mean market inefficiency and social welfare loss.

Another problem emerges within incentives. On the one hand there is the risk of *underprovision* caused by loss of incentives, and on the other there is the threat of *monopoly* distortions caused by use of maximalist intellectual property protection to create incentives (Nordhaus 1969, Romer 2002). The argument for a maximalist IP protection resolves the first (underprovision), but does not address the second (monopoly). Indeed, this second issue takes us back to the initial trade-off between incentives and access, which is essentially a tension between the interests of producers and consumers. The mainstream IP approach addresses only one side of the story, namely, incentives for music producers. It does not consider the welfare of consumers especially given the realities associated with the recent developments in digital technologies, which enhance the potential for lowering marginal costs of reproduction and distribution in order to maximize access and social utility.

The argument for maximalist IP protection, dealing with music as a private good, also assumes that its distribution can be resolved through the price and market mechanism. Market pricing, however, is not an ideal mechanism to deal with knowledge goods. Paul Adler (2001) described a production-allocation trade-off brought about by applying the logic of the market and the price mechanism to public goods. Inherent in his argument is the difficulty of setting a price on knowledge, on both the supply and the demand side. On the supply side, Adler argued that producers cannot specify a price that covers their costs, since innovative ideas are the result of a society's cumulative "total stock of knowledge," which is essentially a public good. Accordingly, it is difficult to identify the cost of the "raw materials" that went into creating the new ideas, as well as the cost of their "transformation" into the innovative ideas that they generated. Adler concluded: "Whereas

2 Note that digital music shares this important characteristic with certain other knowledge goods, including software and, to a lesser extent, pharmaceuticals, also discussed in this volume.

competition between suppliers of most other types of good drives prices toward their marginal costs, no comparably grounded 'supply schedule' guides the price of knowledge" (Adler 2001, 224).

The demand side is equally complex, according to Adler's analysis, as the consumer is unable to place a value on an idea without revealing its secret. Adler concluded that the price of knowledge is "less grounded in any material considerations" (Adler 2001, 224), and considered the price mechanism to be "an increasingly unreliable basis for economic calculation" in the case of knowledge goods. The market/price "mode" hence "fails to optimize the production and allocation of knowledge" in the same way as traditional goods (Adler 2001, 216). As an alternative, Adler made the case for a strong role of communities based on trust as a superior organizational form for the production of public goods.

Adler's conclusion resonates with Benkler's analysis of non-market modes of production for knowledge goods (Benkler 2006). Benkler highlighted models of knowledge production that rely on peer collaboration and that have emerged and expanded, in part thanks to the development of digital technologies (ibid.). The notion of novel business models for knowledge generation that offer an alternative to the mainstream is a concept I use in examining practices of music production and delivery in Egypt.

Reconciling the differences: top-down, or bottom-up?

So far, I have analyzed music as an instance of a quasi-public good, characterized by a trade-off between maximizing access through treatment as a public good and maximizing incentives through treatment as a private good, resulting in a tension between the interests of producers and consumers. A potential reconciliation between those interests can be achieved, however, through regulatory mechanisms devised from above by institutions such as the government (Samuelson 1954, Stiglitz 1999a, 1999b, Kaul 2000). There is also evidence for grassroots models that strike a balance of interests – such as the development of parallel or simultaneous, alternative markets – without the need for top-down interventions.

For a pure public good, the trade-off between incentives and access is typically resolved by the call for government provision such as the case of the lighthouse. But music is not a lighthouse. It is, first, a complex experience good with a necessarily decentralized system of production and delivery which does not easily lend itself to government provision on the same

model as a lighthouse. Second, music is also only a quasi-public good that encompasses unique cost characteristics, and that offers potential for large monopoly rents through IP-based exclusion. Conventional IP-based models for music delivery create incentives for private provision, but do not resolve the incentives-access dilemma. Alternative approaches are necessary to reconcile the interests of producers and consumers, who are now also digital downloaders and file sharers.

Most notable in the attempts to resolve the access-incentive trade-off under the umbrella of the prevailing IP regime are proposals to regulate compensation mechanisms. Thereby, users' compensation would reach producers albeit indirectly and under the foresight of the government as an upper ruling body. Neil Netanel proposed a model whereby unrestricted noncommercial P2P file sharing is allowed in return for imposing a levy on P2P-related services and products, which he calls "The Noncommercial Use Levy (NUL)" (Netanel 2003). This levy would be imposed on the "sale of any consumer product or service whose value is substantially enhanced by P2P file sharing." Examples are consumer electronic devices, computer hardware, P2P software and blank CDs. Artists get compensated out of the NUL pot based on the frequency of downloads as digitally tracked. The law would provide copyright immunity for noncommercial copying and distribution of any expressive content that has been previously released to the public. The amount of the NUL would be determined by the copyright office through applying a "fair return" standard. Such a calculable formula would be readily available in order to minimize administrative and uncertainty costs. When applied, the NUL would expand access, and it would provide a wider window of opportunity and freedom for users of P2P networks to share, examine and alter many of the files available on such networks. Incentives, on the other hand, would be maintained as proprietary copyright would still be protected without denying consumers from using P2P networks (Netanel 2003).

William Fisher has proposed an alternative reward system that would be administered by the government via taxation (Fisher 2004). Within this model, artists would make their song or film available free to the public and would register it with the copyright office under a unique file name. This allows for digital tracking of downloads, which are the base of artists' compensation by the government agency out of the tax revenue fund. This would resolve the incentive-access tension, as users will be guaranteed free access and more artists would be motivated to "enter the field" without having to rely on record labels. Fisher recommended that copyright law be modified to

accommodate the new system, whereby “most of the current prohibitions on the unauthorized reproduction, distribution, adaptation, and performance of the audio and video recordings” would be eliminated (Fisher 2004).

The above suggestions are taken under the umbrella of the formal IP regime and require some form of top-down government regulation. On the other hand, there are markets that emanate from the base and exist outside the realm of the formal IP system. Open access models for music offer a bottom-up model based on “social commons” business form, and may be suited to developing countries where intellectual property remains a distant concept (Lemos 2007). Lemos explains that “social commons” thrive in situations where technology arrived before the law, allowing autonomous creative industries to appear. These often take for granted free sharing and dissemination outside of a legal framework. While many would call this “piracy,” Lemos points out that it is the idea of sharing and mutual appropriation, rather than plunder and robbery, that is at the heart of what he therefore calls a “social commons” (Lemos 2007).

A social commons can generally be regarded as a consequential development of legal enactments that are not fine-tuned to socioeconomic realities, which hence leads to a conflict (Lemos 2007). An example would be expensive legally provided music albums that are simply unaffordable by the majority of the population (Mizukami and Lemos 2008). A social commons then becomes the product of the tension between legality and illegality and capitalizes on actual relations established by people with content and information. It can therefore lead to models and approaches that obviate the necessity of implementing intellectual property protection in the process of cultural production (Lemos 2007).

The *tecnobrega* music business in Brazil is one such example, where artists are compensated through payment for live performances (Mizukami and Lemos 2008). This compensation is supplemented by the sales of the artists’ recordings during the live performance. A network of street vendors also sells low-cost discs to the public, which serves as a mass marketing tool. It becomes the artists’ responsibility to work steadily on diffusing their popularity and building an audience base. The process of making an album is quite strategic. The artist starts by pitching an individual song, rather than a fully fledged album, to check the market’s response to it. Once it reaches the desirable success, albums are built around hits that were individually pitched and a few more compositions, hence giving audiences some sort of participation and gatekeeping functions in the process (Mizukami and Lemos 2008).

The Brazilian case of *tecnobrega* music is a showcase of resolving the tension between creators and users outside the realm of the formal intellectual property right regime. With this example in mind, the following section presents the story of Egypt, which shares with Brazil a history of low enforcement of copyright and high rates of illegal music copying, particularly in the era of digital music. As the story unfolds, I try to analyze whether and how practices on the ground resolve the tensions and trade-offs identified above, especially in light of the uniqueness of the Egyptian sociocultural and economic realities.

Overall, I find that the thriving live music scene in Egypt brings out a dynamic where the tension between music creators and users is eased, as the balance between their respective interests is achieved – or at least, approached – within a *de facto* commons that indeed blossoms outside the realm of the formal IP system. While essentially a model of “social commons,” I use the term “*de facto*” to emphasize that these models naturally emanate from Egypt’s sociocultural heritage in which they are deeply rooted, and find some space to act and thrive outside the scope and limitations of more recently imposed maximalist IP approaches. This is particularly relevant in the debate on sustainable development since these models crystallize the meaning of knowledge as some form of a public good that needs to be shared and, in fact, disseminated.

Stories from Egypt’s music industry

Egypt holds a privileged position in the regional artistic landscape, with many referring to it as the capital of the Arabic music scene. The country has been a fertile territory for multiple genres of music and various models and opportunities for access to audiences and for making gains. Historically, aspiring musicians from all over the Arab world came to Egypt in search of success and fame. For Egyptians, music has always been an experience good associated with historical landmarks, social and political events, experienced more in groups and gatherings than in private. A rich live scene has always characterized Egypt’s music industry, whether in formal concert halls or in the small town cafés or bars.

Despite this rich tradition, there is no scholarship on the economics of Egypt’s music industry, nor on its relationship to intellectual property. Indeed, there are no publicly available statistics on sales, revenues or employment within Egypt’s music industry. This work is therefore built on extensive fieldwork involving interviews with musicians, producers, label representatives, government officials, live performance agents and consumers. Where possible, quantitative data have been obtained from these sources, although in many instances these are informed estimates, rather than based on documenting accounting.

The current study does not offer a comprehensive coverage of Egypt's music industry. Rather, it is a selective attempt to understand the economic realities of three co-existing business models: the mainstream market, the independent alternative music scene and the digital world of downloads.³

In the following sections I tell two competing stories taken from the music industry in Egypt and, in conclusion, trace a common thread between them. The first is the story of the commercial market for pop stars that sells music as a commodity, earning revenues from CD sales as well as live performances. The second is the story of alternative musicians whose livelihood depends almost exclusively on the live music scene. The common thread is this: within each story, a compromise is made via a model of social commons that eases the tension between users and produces and resolves the access-incentives trade-off. The compromise is the de facto commons attained by the live scene that is at the core of Egypt's sociocultural tradition, and whose importance is emphasized thanks to economic and legal realities. In some instances for alternative bands, the commons may take the form of free offering of music; in others, the commons may cross the line of legality as illustrated in the illegal copying, sharing and downloading of commercial music. In all instances, the compromise takes place irrespective of copyright.

The first verse: the mainstream world of the pop stars

The mainstream music market in Egypt is dominated by a few major recording companies, most notably Rotana followed by Alam El Phan. Both labels own their satellite channels, which are important outlets for promoting singers through music videos, commonly known in Egypt as "video clips." These short music videos have become an important pillar of success for Egyptian artists within a music culture that has grown increasingly interested in the visual. The overall scheme of production firms is geared toward exclusivity (Mischiatti interview 2007), leaning toward music being a private rather than a public good. Musicians typically sign long-term contracts, up to three years, with the music labels. Under the typical contract, the label holds exclusive rights to the artist's work, including those to the singers' performances in concert and in video clips.

3 This section draws from research by Nagla Rizk published 2009 as "Arab Musiconomics: Culture, Copyright and the Commons," in Neil Netanel (ed.), *Intellectual Property and Developing Countries: the WIPO Development Agenda*, Oxford University Press.

Figure 4.1 : Market share for mainstream music

Source: Compiled based on various sources and interviews.⁴

As illustrated by Figure 4.1, Rotana owns the bulk (75%) of the Arabic music market share.⁵ According to the company's public materials, its number of singers has reached over 100 in 2008. The company has a set of six satellite channels, four of which are dedicated to music (Rotana 2009).⁶ Alam El Phan, runs two music channels, Mazzika and Zoom.⁷ At one point of time, Mazzika was sold to Rotana, but then it was repurchased by Alam El Phan. Although a number of other labels compete in the Egyptian music industry, none of these smaller companies own satellite channels, and their market share is much smaller.⁸

According to Alessandro Mischiatti, marketing manager of Alam El Phan, the company assumes the role of the producer and the manager of the singer. In other words, it produces the record for the singer and at the same time manages all communication with distribution entities and any other entities in demand of the singer's music. This gives decision-making capacities to the company with regards to distribution as it owns the rights to the songs. The same model holds within Rotana. Both labels typically strike deals on a per-album basis, under which they hold exclusive rights

4 These are mostly estimates made by industry insiders, and based on a mix of the label's alignment of top stars and size of sales revenue.

5 Although the Rotana website claims the company holds an 85% market share, I adopt the more conservative figure of 75%, which was supported by several of the sources I interviewed.

6 These are Rotana Tarab, Rotana Clip, Rotana Mousica and Rotana Khalijeyyah.

7 While Zoom only broadcasts Arabic content, Mazzika has rights to broadcast content from major international labels.

8 The US market is also dominated by a few major players, albeit much less concentrated. According to Nielsen SoundScan, in October 2008 Universal Music led the US music market with 35.12%, followed by Sony Music with 22.79%, Warner Music with 21.12%, EMI Group with 8.35%, and the rest of the labels with 12.61% (<http://www.itfacts.biz/music-market-shares-in-october-2008/11622>).

to the artists' performances of the work – in concert, on disk, and in video clips – for a given period of time, usually 1-2 years. Independent producers or artists may also sell the exclusivity rights of a particular release to the music channel for a certain period of time.

Egypt's mainstream model of revenue sharing typically has the record label assume the role of music producer and distributor at the same time. According to Mirage record label representatives, this is a major difference from the international business model, whereby the record label is usually responsible for the production and management of the musician's artistic output, and shares revenue both with the artists and with a partnering distributor who is responsible for supplying the record to the different sales outlets (Maher interview 2007, Tosson interview 2007). In some instances in Egypt, however, the artist acts as their own producer, in which case revenue is shared between the artist and the distributor, where the latter receives only a percentage of the sales revenues and does not share in proceeds from live performances (*ibid.*).

In both cases of Rotana and Alam El Phan, income through the satellite channel is generated from a variety of strategies. These include: sales of advertisements,⁹ competition programs that involve paid calls and text messages from cell phones, the sale of digital ring tones, and other deals with mobile operators and online music services in exchange for a share in the revenues of charged downloads (Mischiatti interview 2007). The main market strategy is hence getting more exclusivity deals and constant update of content.

Although the contracts between artists and companies typically accord the labels exclusive rights to performances, album sales, and broadcasting, enforcing these rights is easier in some areas than in others. Expounding on the nature of this control, Mischiatti of Alam El Phan says:

The music industry is highly exclusive, for example, songs produced by one of the music channels would not be broadcasted on any other music channels. Singers who move from one producer to another at different timings of their career have to abide by an exclusive clause in their contract with any of the different producers, namely that the singer loses the rights to his/her own songs produced by an entity once he/she shifts to another production companies, i.e. the singer cannot sing them in concerts, on TV

9 Revenues from advertising represent 20-25% of the revenues of Mazzika TV channel (Mischiatti interview 2007).

shows and in weddings. But since tracking is a tough job for the production companies and lawsuits take forever in Egypt, it happens from time to time that singers do breach this contract clause and do receive warnings from their previous producers. (Mischiatti interview 2007)

Not only live performances but also recorded sales are difficult for labels to police. Black market sales of CDs have long been a reality; the new era of illegal file sharing only accentuates this difficulty. In this context, ownership of a satellite channel becomes crucial to generating revenue; in this form of distribution, at least, the competitors continue to respect each others' exclusive rights. Moreover, while access to satellite channels requires subscription, a common practice in Egypt is to have unauthorized access through what is termed "the connection." This is a model whereby one subscriber pays the subscription fees (initial fee of LE350 (equivalent to a little over \$60) and a monthly fee of LE160 (equivalent to just under \$30), then offers unauthorized extension cords to different homes in return for an initial subscription fee of LE60 (equivalent to a little over \$10), and a monthly rate of LE20 (roughly equivalent to less than \$4). An illegal model of shared access to the content of satellite channels, the connection offers an affordable alternative that is more suited to the economic realities of the country, and that expands access, albeit not offering monetary reward to the channel owners.

The highly concentrated nature of Egypt's music industry shows no signs of changing in the near future. Other companies have found it difficult to continue producing music for singers, since they have no music channels on which they can broadcast video clips for their stars, which is a cornerstone to the album's success. This is becoming increasingly important given that voice is not the only key to popularity, but other elements also play a role such as image and art directing. Some companies said that the market was controlled by major players leaving no space for small players. In addition, ongoing and consistent illegal copying, downloading and file sharing have left such companies with little gains to make.

Both mainstream labels have also created their own digital download models, with new technologies making the process of downloading music to computer or mobile phone a fairly easy and accessible process. In the case of Rotana, its website sells mp3 music paid for by credit cards, at \$0.99 per song. Alam El Phan, on the other hand, has developed a more complex model available only for Egypt. Streaming and downloading of songs and

videos are paid for by credit points earned by hours of access to the Internet through a particular dial-up number. Alam El Phan's website also offers the sale of hard copy CDs and DVDs using the same credit system, as well as by credit card (www.alamelphan.com).

Alam El Phan also introduced another venue for music downloads via mobile phone. The company's satellite channel Mazzika launched Mazzikabox.com, whereby Arabic music is downloaded to mobile phones via software that is freely provided. Songs are sold for LE1 (less than \$0.20) which is deducted from the customer's phone credit and paid automatically upon the song download. Customers have a choice of downloading the mp3 or the ring tone version of the song. By offering digital music via the combination of Internet and mobile telephones, Mazzikabox stresses convergence as their unique selling point, which differentiates them from other music providers. With a rapidly growing mobile penetration that exceeded 50% in 2008, mobile phones are becoming a growing platform for music delivery in Egypt. The introduction of the 3G mobile technology in 2007 has made the mobile technology an even more suitable platform for music distribution in the country.

Both of the above models represent legal downloading websites tied to a label. There are independent websites that also offer legal downloads, the first of which in Egypt is Mazika.com (www.mazika.com),¹⁰ which was bought by one of the major Internet providers (Linkdotnet). Mazika used to send warning letters to illegal websites to sign onto their digital rights management and revenue share or else they would report the site to be closed (El Baradei interview 2007). Mazika sells mp3 music at a price of LE1 per song (less than \$0.20); payment is made using prepaid debit cards, the credit for which is bought by a credit card. Mazika has signed contracts with both major labels where revenue is shared in half, and also signed with individual musicians, in which case the artist receives 50% of the sale price (Barakat interview 2007a, Sobhy interview 2007).

The social commons for pop stars: live is king

The importance of the video clips is matched only by the significant role played by the live scene in promoting pop stars in Egypt. Traditional culture carries on in the prominent play that live performances continue to enjoy in Egypt. Good summer weather encourages frequent and popular beach

10 Mazika.com is different from the Mazzika satellite channel owned by Alam El Phan.

Table 4.1 : Legal websites for music downloads in Egypt

	Rotana	Alam Al Phan	www.mazzikabox.com	www.mazika.com
Mp3	Yes	Free sampling (part of the song), paid streaming, and downloads	Yes	Yes
CD	Coming soon	Yes	No	No
Tape	No	Yes	No	No
Video clips	Coming soon	Paid streaming and downloads	No	No
Mobile ring tones	No	Yes	Yes	No
Payment method	Credit card	Credits counter or credit card	Phone bill	Link card or credit card (buy credit on link card)

Source: Compiled based on information in providers' websites.

parties featuring pop singers. Live performances in major hotels are also frequent, especially in festive times and during holiday seasons when tourists come from neighboring Arab Gulf countries. Hotels compete for the top pop stars; the choice of star is a sign of the venue's prestige.

Then there are wedding parties. In the Arab culture, marriage is a highly celebrated life event for young people coming of a certain age; arranged marriages are not uncommon. Egyptians have a strong preference for live music at wedding parties, which emphasizes the nature of music as an experience good rather than a commodity. The small stratum of the upper class tends to make an excessively lavish show of its wealth in the form of extravagant weddings. This flagrant show of luxury is especially seen among families with newly acquired wealth. Families may live in debt, if only to ensure that their sons and daughters have the proper and prestigious wedding. The choice of a wedding singer is a most important status symbol. Pop stars are usually at the center of this choice, and are, naturally, in high demand.¹¹

11 From an access to knowledge perspective, it is important to note that live performances are an area ripe with access opportunities for users, but could still be exclusive. In concerts, tickets prices may be quite

The live performance market for pop stars is an interesting case study in supply and demand. On the one hand, there is a strong and inelastic demand coming from the public as illustrated in weddings and other live parties. On the other hand, supply is offered by the pop stars, each being a monopolist in their own right. The pop star charges exorbitant rates for weddings, which are multiplied by two to three times for the live parties. There is a price for "superstardom" as talent is not replaceable, nor is it additive (Connolly and Krueger 2005). The market then settles at a high equilibrium price for each pop star. In weddings, the rate ranges from the equivalent of almost \$37,000 per performance for the top Egyptian singer, to the equivalent of \$930 for the lowest (Salem interview 2007). Lebanese singers may charge between \$25,000 to \$40,000, in addition to covering expenses of travel and accommodation for themselves and their accompanying musicians (Salem interview 2007).

Given the considerable revenue that top singers earn from live performances, the major record labels have recently pushed singers to agree to recording contract provisions that give labels a share of the singer's live performance proceeds. Even when singers acquiesce in the labels' demands, however, such provisions are more easily enforced in the case of concerts than weddings. Weddings can be informally contracted, with artists wanting to cash in on the wedding proceeds in return for their effort, and seeing little reason to share their earnings with a label. There have been disputes between artists and labels on this particular issue.

How do artists' earnings from live performances compare to their earnings from the sale of copyrighted recordings, namely tapes and CDs? Put another way, what is the relative importance of the copyrighted recording, as opposed to the live performance, from the musician's perspective? The major challenge faced in attempting to answer this question is the lack of publicly available information on sales of musical units, proceeds from royalties, and any receipts of major labels out of the live performance. To overcome this challenge, I gathered information on a top Egyptian pop star (whose name is withheld) whose contract with the major label was highly publicized and the figures confirmed by almost all interviewees. I made a

expensive if the artist is a very popular. In weddings, although listeners are not asked to pay for the privilege, there is more of a social calculation. Only a family of extensive wealth is going to be able to afford certain artists, and their guests are quite delineated. Live performances are thus also exclusive; it should thus not be assumed that issues of access and distribution exist only with respect to recorded music.

rough estimate of the artist's earnings from weddings and live parties based on the artist's live performance rate (as provided by the wedding and party agent at a major hotel) and frequency (as estimated by an accompanying musician). Although this exercise is preliminary and provides only one data point, I believe that this artist's situation is roughly representative of major pop stars in Egypt today.

This particular artist had signed a deal with the major label whereby a lump sum of \$5 million was paid at the signing of a three-year contract. Under the terms, the label obtained exclusive rights to satellite broadcasting and copyrighted merchandise (CDs, downloads, etc.), but with all rights to a share in live performances waived. The artist's annual earning out of copyrighted recordings may thus be imputed by dividing the lump sum of \$5 million over the contract term of 3 years, yielding an annual earning of \$1.67 million a year. My estimate of the artist's earnings out of live parties and weddings over the same three-year term totaled \$7.88 million.¹² In short, this artist's earnings out of the live performances totaled 4.7 times those coming from the sale of copyrighted recordings. As I mentioned earlier, this particular case was calculated based on the fact that this singer received a lump sum payment upon signing the contract in lieu of percentage of sales. This is typical in Egypt, partly due to the weak institutional structures to ensure efficient implementation of the collection mechanism (El Kashef interview 2007). Even if pop stars supposedly receive percentages out of the sales, a good part of that escapes the collection chain in most cases. The latter is partly the result of a lack of proper accounting mechanisms, as well as inaccurate reporting on the part of vendors (Ousso interview 2007). Indeed, the weak institutional structures in Egypt have meant that musicians who sign to percentage of sales rarely receive their due share via the collection chain (Salama interview 2007).

Thus, although an estimate for only one artist is presented here, I expect most artists' relative earnings out of copyrighted recordings to be quite modest. Even where the rate charged for live performances is lower than the singer under study, I still expect the ratio of their earnings of live performances to copyrighted recordings to be high, given the negligible proceeds from copyrighted sales.¹³

12 Calculated at the exchange rate of \$1 = LE5.5.

13 After undertaking this exercise, I came across a similar calculation undertaken for the top 35 pop stars in the United States (Connolly and Krueger 2005, Table 1.1, p. 71). In this case, the authors use data published in *Rolling Stone* magazine on the stars' earnings in 2002. The ratio of live

The claim that live performances weigh much more heavily in musicians' earnings in Egypt than do revenues from sales of music recordings is made stronger by the fact that sales of recorded music are generally declining, due in part to illegal copying and file sharing, with no similar signs for the live music scene. One published statistic shows that the steepest decline in global production of music units (cassettes, CDs and DVDs) by region in 2004 was witnessed in the Middle East (-13.3%,) followed by Australasia (-5.8%), with an average world rate of -0.4% (IFPI 2005). The decline in the production and sales of licensed pop music albums further shrinks the already limited return to musicians from copyrighted recordings.

In light of the above, I argue that the thriving live music scene – rather than sales of copyrighted recordings – seems to offer the venue where artists and music lovers are brought closer together in the mainstream market for pop stars. Artists' main earnings come from the live scene. Under the prevailing differentials in artists' earnings between the live performance and the copyrighted recording, and in light of a weak enforcement of the copyright law and the weak institutional structures, artists use the copyrighted item as a reputation device, while the main benefit is achieved through the live performance. Music lovers are also comfortable with accessing music through this group experience within social gatherings and irrespective of copyright. While the major labels continue to deal with music as a private good, what seems to take place in the tension between access and incentives is resolved through a special form of de facto commons that is not restricted by copyright, and that is more aligned with the sociocultural context and economic realities in Egypt.

The second verse: the alternative music scene

An alternative music scene is developing in Egypt independent of the mainstream commercial space, featuring bands that perform outside the commercial channels and provide an alternative voice that is often associated with social rebellion and political dissent. These groups play a wide array of genres, ranging from rock, to metal, to Latin, to Arabic and oriental jazz. This clique of musicians has been slowly making an entrance into the music

performance earnings to copyrighted items came out as 7.5 on average (Connolly and Krueger 2005), even higher than that of star performers in Egypt.

market that is traditionally dominated by mega-producers focusing on pop stars. Bands and singers predominantly show in private cultural venues and centers which act as their point of liaison with their base of audiences. Main players in this underground scene like to dub themselves as the alternative to the operating mainstream, and not simply groups who happen to fall outside an existing framework. Some groups like to call themselves independent to emphasize their freedom from all possible constraints manifested in business deals or political affiliations.

The beginnings of alternative music in Egypt may be traced to the early 1990s, with two young bands that played original hits, mostly rock (Ousso interview 2007). Alternative music in Egypt suffered a major setback due to the police crackdown of 1997 associating musicians with satanic practices and improper ethical conduct. Many alternative musicians were jailed and the rest were subjected to strong family pressures. Nevertheless, alternative music still survived the dramatic "satanic" trauma. A more solid beginning finally came in the early 2000s, with the creation of outlets catering to alternative musicians. These ranged from pubs hosting live music, to bigger cultural spaces continuously promoting artists. Examples of the former are the Cairo Jazz Club and After 8. The latter are particularly considered a breakthrough for alternative musicians, especially Al Sawy Cultural Center and Al Genina Theater.

The outlets

Since it started in 2003, Al Sawy Cultural Center, also known as Al Saqia, catered to the needs of alternative performers and bands by hosting concerts, where they facilitated sound and light equipment as well as media advertisement. Literally translated as "cultural wheel," Al Saqia was built on the site of a garbage dump under a flyover by the Nile. The center transformed the role of the middleman in the music industry by "removing the concept of CVs," to use the words of its founder and director Mohamed Al Sawy (Al Sawy interview 2008). In other words, performing singers and bands do not need to have a long history in performance before approaching the center for a concert. In terms of revenues, the performing band does not bear any cost, since all equipment as well as the space is provided by the center. Revenues from ticket sales are typically shared equally between the space and the band, although in some instances the artist may get up to 70%, depending on his or her popularity and good performance. In the rare

cases when an alternative band or singer has a CD, these are made available for sale at the show; the center gets 20% of sales. The center then covers half its costs from ticket and CD proceeds and annual membership fees which are set at a modest rate of LE30 (equivalent to \$5.5) in return for a discount of LE5 (a little under \$1) on concert tickets plus free access to the library and use of facilities. The center covers the remaining 50% of its expenses through sponsorships from corporate social responsibility initiatives by major companies such as Alamiya (Mr. Al Sawy's own establishment), MobiNil, Juhayna, the Arab African Bank and Egypt Air. The Al Sawy Cultural Center's sustainability depends upon the renewed support of his sponsors each year. The Director also plans to launch "Sound of Saqia," an Internet radio initiative with advertisement as a source of income (Al Sawy interview 2008).

Al Saqia hence brings musicians and consumers closer together. On the one hand, it provides an entry point for nascent bands that do not have a lead into the commercial world, by giving them the exposure and the opportunity to keep their own copyrights, at no cost. On the other, it equally provides for easy access to the public, with inexpensive tickets ranging from LE10-25, roughly the equivalent of \$2-5. With two separate theaters, the space will often run two concerts every day and crowds are often seen gathering on the streets awaiting the opening of the doors. Al Sawy himself has boasted that 750 music concerts were held in Al Saqia in 2006, mostly performed by alternative bands. In the meantime, it stays a nonprofit organization, with sustainability generated largely by mere good intentions and commitment to support young talents, and with live performance as its primary mode of music delivery to customers.

Al Mawrid Al Thaqafi (The Cultural Resource) is another nonprofit outlet catering to alternative musicians in Egypt and other Arab countries. Its scope covers all performing and self-expressive arts as well as experimental works crossing over different arts media. Al Mawrid offers production awards through an open application process with grants ranging from \$500 to \$5000 for young musicians to produce their own record, to which the artists retain copyright. The awards have allowed the production of five CDs so far. Revenues of the LE55 CDs (roughly equivalent to \$10) are divided as follows: 20% to the retail shop and 80% to production. Out of the latter 80%, 50% goes to the producer, 30% to the distributor and 20% to the band (Abdallah interview 2007, Ousso interview 2007).

In other words, out of every CD sold, the band gets roughly the equivalent of \$1.60.

According to Mohamed Abdallah, the program coordinator, Al Mawrid Al Thaqafi attaches particular importance to engaging international donors, whether private or governmental, in conversations that result in generating funds and giving more attention to the independent cultural sector in the region (Abdallah interview 2007). In addition, it seeks to explore possibilities of building long-term partnerships with the corporate sector in the region. In the meantime, Al Mawrid has also sponsored the opening of a performing space, Al Genina Theater that, like Al Sawy Cultural Center, provides alternative bands with a performing venue and an exposure to audiences.

Another initiative that focuses on the revival of traditional music is "Makan" or the Egyptian Center for Culture and Art, which hosts live performances and records releases. The thrust to focus on traditional Egyptian music, as expressed in the Center's mission statement, is to recreate a place for it in the everyday life of Egyptians. "Traditional Egyptian music is increasingly in danger of being relegated to the status of an exotic tourist curiosity, a showcase of national identity or a place on the shelves of academic archives, all of it far from the daily lives of its dwindling practitioners" (El Maghraby interview 2007). A series of cassettes, CDs and DVDs have hence been produced by Makan, alongside regular live performances by groups coming from different parts of Egypt and whose reputation may be limited to their own, sometimes remote, environments in rural Egypt. This initiative has been recognized by the Society for Ethnomusicology, which awarded the Makan Center the Lois Ibsen Al Faruqi Prize in 2005. According to Ahmad El Maghraby, the initiator and Director of Makan, cheap entry tickets to performances, ranging between LE5 and LE20 (between \$1 and \$5), cover a quarter of the concert's expenses. Well-to-do customers are encouraged to buy more than one ticket since, so far, ticket sales have been Makan's major source of funding (El-Jesri 2005). Despite that and its small capacity (a maximum of 50 tickets), Makan still offers no advertisement but counts only on word of mouth as the means of filtering the audience to ensure attendance only by music lovers (El Maghraby interview 2007).

Makan hence offers another alternative model of the middleman, giving opportunities of exposure to groups falling outside the scope of Cairo, in a context where the industry is extremely geographically polarized into the capital city. Makan also serves its audience by providing them with

affordable access to artistically produced music genres that have become scarce and, at best, exoticized. The business model by which this mission is implemented provides satisfactory solutions for both the artists – through exposure and revenues from CDs and performances – and to the audiences via cheap entry tickets.

From an economics perspective, it is notable that all of these centers produce music on the model of a quasi-public good. The model has some characteristics of a private good, in that the partial excludability of music is exploited in order to charge concertgoers for access to a unique live performance. This revenue model does not, however, depend upon copyright enforcement to protect the excludability that ensures its success. At the same time, the model has some characteristics of a public good, in that it relies in part on donations from public-minded individuals, corporations and foundations, to produce something that is considered to hold significant value for the Egyptian public generally. This raises the question of whether the quasi-public model of alternative music production is sustainable in the same way as the purely private model of mainstream music production.

For alternative artists, live is livelihood

Like the mainstream pop stars, alternative bands earn from live performances, albeit less lavishly. Weddings are not usually an option for alternative musicians, since pop stars are the ones usually sought after there. Alternatively, live concerts hosted by an array of organizations become the venue for live performances for alternative bands. In addition to the nonprofit music performance centers described above, private venues such as select bars in Cairo (After 8, Cairo Jazz Club) offer opportunities for live shows hosted by alternative bands. However, and unlike in Brazil where pubs and clubs offer a for-profit venue for alternative bands (Mizukami and Lemos 2008), nonprofit cultural venues are the main outlets for Egypt's alternative musicians since there are only a few bars that host a live music scene in the country.

Given the high ratio of earnings from live performances as compared to copyrighted sales in the mainstream pop star context, what is the situation like for alternative musicians? I attempted a similar exercise, based on accurate information provided by the lead musician of the leading alternative band, Iftiksat (Ousso interview 2007). This band produced one CD as the winners of the competition organized by Al Mawrid Al Thaqafi. They also

frequently perform in the popular outlets (Al Sawy Cultural Center and Cairo Jazz Club). With the help of the band leader, I estimated their annual earnings out of live concerts at \$4800, compared with annual earnings out of the CD at \$360. This represents an earnings ratio of 13.3, weighted even more strongly in favor of live performances than the ratio of 4.7 obtained for the mainstream pop star.

It is to be noted that this band is one of the few alternative bands that have had a CD produced. It is more often the case that an alternative band's earnings out of copyrighted recordings stand at absolutely zero, and hence the band's livelihood depends solely on the live performance. One may philosophically argue that for zero earnings out of copyrighted recordings, the ratio of live performance to copyrighted items earnings is indeed infinity for Egypt's alternative musicians.

The artists' perspective on incentives and access

What do alternative artists themselves think about the tension between expanding access versus preserving financial incentives at the heart of the copyright debate? To find their perspective, I put this question to three such artists.

Iftikasad is one of two bands leading Egypt's alternative scene. For Ousso, the band leader, the Internet is a key element of success for alternative musicians. "Best way to promote music is put it freely on the Internet as a promotion to the bands. Next will come the live performances, and this is where the artists can make money." Ousso thought that this type of free access is only relevant to the realm of alternative music, where tunes and lyrics are more representative of peoples' lives and are more likely to be identified with. The mainstream artists reap higher financial rewards through copyrighted business models but, in Ousso's view, catering to this market comes at a price: "It is fair to say that the music is the voice of the people, especially that the lyrics of commercial music have deteriorated tremendously" (Ousso interview 2007).

The second is Wust Al Balad, one of the Egyptian alternative bands that managed to consolidate a solid, wide base of audiences across the nation. In their open air concerts, one finds thousands of fans, particularly young men and women, repeating vehemently after them their theme song *Wust Al Balad* (vernacular for "downtown"), a self-tribute to the fact that their music has reached everyone, from the intellectual to the man on the street.

The band started by playing in pubs like After 8 and then quickly moved to the more inclusive cultural spaces such as Al Sawy Cultural Center. Their streams of income reside primarily in live concerts, be it regular or seasonal performances. Although they recently released their first CD, direct monetary returns is not the strategy that the band is eying right now. "Wust Al Balad seeks to reach the average Egyptian and to touch him or her through music. In seeking that, we care about developing a wide listenership base more than financial returns," says Hani Adel, the lead vocalist and guitarist of the band. Adel pinpointed the challenges of trying to pursue the traditional way of getting a production company to release an album for them. "Production companies are risk averse when it comes to new music genres or alternative music. They prefer going for conventional Arabic music as a guaranteed and secured income. [Moreover], music production companies can enslave the artist if he/she does not watch out," says Adel (Adel interview 2007).

Fathi Salama is another success story in the alternative milieu. After a long career as an arranger for pop stars who belong to the mainstream tradition, in 1988 he created his own band, Sharqiyat, where he composes and plays music that does not fit the commercial scene of the pop star. "I made some millionaires, but not myself," he said in an interview with the *Daily Star Egypt* (Al-A'sar 2007). He was then put in a dilemma, namely producing music with meaningful content as opposed to making money through the mainstream commercial scene. He lamented how local producers had no interest in content. "Those companies do not want to change, they will only do what they think will sell. They are not open to any different direction" (Salama interview 2007).

The artists' quotes shed light on the incentive versus access debate. What they seek is recognition and appreciation of their music, rather than monetary incentives. This is reminiscent of the unique qualities of music, which here shows itself not to be a private good that lends itself to the usual market forces and price mechanism. Indeed, on one level, one does not really see a contradiction between the interests of music creators and those of consumers.

True commons for alternative musicians: free music

Besides live performance outlets for alternative musicians, where there is still some form of monetary gains for the artists, there are also venues through which alternative music is provided totally free. This can be considered a genuine manifestation of the commons. A visible example is free street

festivals held to promote the bands as well as music that is made available through free CDs.

First, the Save our Souls (SOS) festival (www.sosmusicfestival.com) is a free full-day concert of alternative bands that takes place bimonthly in Cairo and in Alexandria with the sole purpose of promoting the music. The SOS organizers have created a website, which serves as a venue of interactive communication among lovers of alternative music in the country and the region. In line with that regional scope, the organizers have also started to involve alternative bands from Morocco and Lebanon in SOS festivals. They are also exploring means of providing the bands' music freely and legally downloadable on the Internet to fans of alternative Arab music all over the world (Ousso interview 2007).

The purpose of SOS is to provide bands with access to a large audience and attract the interest of the media and the entertainment industry in general. Although the festival is free, invitations are provided based on answers to a questionnaire posted on the website. This initial screening of the audience is meant to ensure attendance by music lovers and avoid potential party misbehavior, placing high emphasis on quality rather than quantity of attendees (Ousso interview 2007). In some sense, this may reflect the emphasis placed by the organizers on maintaining the reputation of the party and the quality of music rather than on expected profits that would ensue as a result of the promotion of the bands to the largest possible number of people. In general, the SOS model resonates with the nature of alternative music that chose to be accessible to people and hence can only thrive through community support and irrespective of the profit motive as an incentive to music creation.

Another example of the free commons for alternative bands is manifested in the offer of free music CDs. In one case, Rania Shaalan, a singer from the alternative scene, gave away free CDs of her music after her concert. Another initiative was taken by Kawalees Masr (literally meaning Backstage Egypt), where a compilation CD of songs by independent musicians is produced bimonthly and made available to the public for free. The Kawalees Masr team is also involved in preparing an annual festival in Alexandria (Independent Music Festival). It discussed plans to provide Arabic music within social networking sites, a vehicle that would be most suitable for the culture of young people in the region (Samy interview 2007). These initiatives suggest that alternative Egyptian bands are increasingly looking

to leverage the marketing potential of giving their music away for free, and might stand to benefit from adoption of Creative Commons licenses.

While not yet widespread in Egypt, the promotion of musicians through free CDs is comparable to the Brazilian story of musicians in the city of Belem, where many alternative musicians are taking advantage of the new digital technologies to cheaply produce CDs (Mizukami and Lemos 2008). These may be sold at concerts, but are also frequently given away for mass copying by black market street vendors. Although the musicians will not directly earn proceeds from these sales, they know that having their music in circulation will boost their popularity and thus result in more invitations to give live performances (*ibid.*).

The story of Egypt's alternative musicians shows how alternative bands depend on the live music scene to an even greater extent than the major pop artists; indeed for their livelihood. Alternative music is sometimes offered for free, in an effort to promote the musicians and their bands. The practices adopted by alternative bands represent a *de facto* commons in the sense that music is experienced and shared as a group activity within social gatherings and personal interaction, with little to do with the profit motive and nothing to do with copyright.

Two stories and illegal music copying

The stories relayed above scan two different models in Egypt's music business. Cutting across these is a third branch of the industry, namely the world of unauthorized copies of recorded music and illegal Internet downloads. In one instance, there is illegal access through purchasing bootleg cassettes and CDs on the street; in another there is illegal access through Internet downloading and file sharing by the end user. In both models, the customer is reaching for an alternative that is less expensive than the original. And in both models, complaints are voiced on the part of the music labels and business interest groups, while domestic authorities follow an existing but seldom enforced domestic copyright law. Artists also have a voice in the debate.

The rise of the illegal copy and eclipse of the copyrighted recording

Markets in Egypt are flooded by illegally copied cassette tapes and CDs. The International Intellectual Property Alliance (IIPA), a coalition of associations

representing US copyright-based industries, reports that 60% of music distribution in Egypt is of black market copies based on illegal replication of one single original copy (IIPA 2009). A report by the American Chamber of Commerce in Egypt stated that for every Arab artist there is at least one illegally copied album on the market. In fact, the master recordings of the album of a top Egyptian pop star were once leaked from the studio and were illegally copied and released to the market even before the release of the original album (AmCham 2005). Although these reports come from sources with a particular agenda, the picture they paint accords with the observable reality of daily life in Egypt.

A popular form of illegal copying is the creation of music compilations of top hits by different singers on cassette tapes and CDs commonly known as “cocktails.” The sale of cocktail cassettes represents the bulk of overall music sales in Egypt, especially in poorer and distant parts like Upper Egypt, the Delta and Cairo outskirts (Sameh Morcos, owner of DJ Recording as quoted in AmCham 2005). Selling spots take the form of street kiosks as well as “copy shops,” some of which have the option of burning CDs on the spot (*ibid.*). Illegally copied tapes and CDs are often seen in kiosks on the sidewalks of Cairo, sometimes at the heart of downtown, where certain streets are dubbed the streets of *madrouba* (slang for copied) recordings, due to the wide availability of music and film copies. There, a network of shops, street vendors, and small-scale replication plants controls the informal business.

In parallel to the street scene, illegal music downloading from websites and file sharing are also practiced in Egypt. The table below offers an example

Table 4.2: Popular websites for illegal music downloads

Alexa traffic rank*	Online music site	Egyptians as % of total users
20	mawaly.com	54.00
25	mazika2day.com	86.20
41	6rbtop.com	29.50
60	6trb.com	18.00
63	Nogomi.com	66.20

* Rank among top websites visited in Egypt, as compiled from Alexa.com.

of illegal download websites with the highest traffic in Egypt according to Alexa.com. These are accessed from home computers or in Internet cafes, many of which have computers with unlicensed software that allows users to illegally download music from the Internet (AmCham 2005). The IIPA, which represents business interests, reports that illegal downloads represent 97% of all digital distribution of music in the country (IIPA 2009). Unfortunately, there is no sufficient information to verify this estimate, except that legal music download websites are not among the top 100 websites frequented in Egypt (Alexa.com).

Peer-to-peer (P2P) file sharing of Arabic music is not uncommon in Egypt via the globally known software – LimeWire, BearShare, Kazaa, and eMule. In addition, music file sharing takes place via websites of social network forums (see Table 4.3). Visitors to these popular websites get news, upload and download files, programs, songs, movies and pictures as well as participate in discussions and chat rooms. Unlike with peer-to-peer file sharing software like LimeWire, music files are exchanged without a requirement for the music file source to be available already online; users can send any file they have on their computers and receive files from the central server.

Producers' discontent

Music recording labels complain that illegal music copying has led to a decline in sales and discouraged investments in the music scene. According to Samer Adel Maher, general manager of Mirage, a distribution firm,

Table 4.3: Most frequented social forums that offer file sharing in Egypt

Traffic rank in Egypt	Site	Egyptians as % of total users
10	Myegy.com	63.90
39	As7apcool.com	45.20
42	Arablionz.com	83.40
57	Shobiklobik.com	55.90

Source: Alexa website.

illegal online and physical music copying has been the main reason that sales of CDs with Arabic content have dropped to 5,000 CDs, as opposed to 200,000, CDs in the period from 1996 to 1999 (Maher interview 2007). He also cited other forms of social networking sites and music forums as reasons behind the drop in CD sales. These, he argued, are hard to follow because these companies can close and open overnight under a new name and a new IP address (Maher interview 2007). Moreover, the Egyptian government has no jurisdiction to shut down websites that are hosted on servers located outside Egypt (AmCham 2005).

Representatives from the music business argue that illegal music copying and downloading have a negative impact on both the producer and the consumer, as the former has less incentive to develop and market music, and the latter is deprived of the higher quality recordings (Tosson as quoted in AmCham 2005). The IIPA, which represents copyright-based business associations, estimates Egypt's losses from illegal music copying at more than \$15 million in 2007, which is three times the value in 1996 (Figure 4.2).¹⁴ Such a claim is supported by the similarly oriented International Federation of Phonographic Industries (IFPI), which estimates that 50% of all music sales in Egypt in 2005 were illegal copies (AmCham 2005). Barakat, the former product manager at Mazika.com, estimated the market for illegally accessed music in Egypt to be worth \$12 million (Barakat 2007b).

The artists' stand

The concerns about illegal copying coming from representatives of the music labels are not always echoed by the musicians themselves, or in some cases, by producers of alternative music. One mainstream musician blatantly said in a newspaper interview, "I do not care about profits earned by the label as much as I care that my audience enjoys my music, regardless of where they get it: online or through pirated CDs or any other way. Whether the label wins or loses does not concern me" (Al-Masry Al-Youm 2009). For alternative artist Fathi Salama, illegal copying does not matter either. In response to a question on copyright protection, he responded "Now if someone takes a piece of music from me and plays it I will leave it to be played, because this

14 The IIPA's chagrin with Egypt's illegal copying is evident in its call for placing Egypt on the US Trade Representative's "priority watch list," labeling Egypt "a nightmare market for right holders, stunted by piracy, difficult bureaucracy, and almost unparalleled market access hurdles" (IIPA 2009).

Figure 4.2: IIPA estimated piracy rates and trade losses in records and music industry in Egypt due to copyright infringement

Source: IIPA, various issues.

is the only way people can listen to it" (Attalah 2005). Makan's El Maghraby recounts that the Center's releases have been subject to illegal copying, although his concern was not for lost revenues: "I found one of my records pirated, so I did some searching and found the person who does it and gave him actually the master because if he's going to distribute it, at least [he can] distribute it in good quality" (El Maghraby interview 2007). Moreover, an Egyptian musician and producer of the independent label "100 copies" indicated his interest in making all the music he produces freely available on the Internet, perhaps through radio streaming (Refaat 2007).

Indeed, throughout our interviews with Egyptian alternative musicians, not one expressed concern about illegal copying. This sanguine attitude of musicians reflects two facts. First, Egyptian musicians overwhelmingly reap their financial rewards through live performances rather than sales of recorded music. Second, whereas for the labels the concern is ultimately about profits, the musicians have several incentives, including nonmonetary ones, which cause them to appreciate the benefits of a wider distribution of their music. Indeed, from the musician's perspective, their music's value comes at least in part from its status as a "gift" shared with the public, which may be devalued by rigid insistence on payment.

The consumers: the socioeconomic dimension

For consumers as well, copyright is not a factor in their decision-making. The generous and pervasive gift culture typical of Egyptians means that it is socially unacceptable to refuse to loan or share a possession with a friend, or

to refuse a request to copy an admired CD.¹⁵ Music recordings, among other items, are warmly exchanged and generously shared. Copyright concerns pale in such contexts; copyright may actually be disruptive to social norms. If and when there is awareness of the concept of copyright infringement, it is viewed as a harmless deed, rationalized as possibly depriving the recording labels of potential revenues rather than actual tangible income. By copying a song, the user is not robbing the copyright holder of any money he or she already possesses; what is being denied is the potential revenue that the copyright holder might theoretically have earned.

Aside from this normative dimension, there is undeniably an economic one as well. For users, an illegal copy of the song is a significantly more affordable alternative. The price of an original CD of Arabic music ranges between LE35 and LE50 (roughly \$6-9). The illegally copied CD is sold at less than 10% of the price of the licensed recordings. In Egypt, 97.5% of the population live on below \$10 a day (World Bank 2007). Indeed, music industry insiders themselves have estimated that 60% of Egypt's population cannot afford an original tape, which is already much cheaper than a CD (AmCham 2005). For many consumers, therefore, the choice is between an illegal copy or none at all. The following excerpt, taken from an Egyptian newspaper article, illustrates the extent of relevance of copyright to the layman in Egypt:

"What is copyright – what does it mean?" The taxi driver inquired, perplexed. "I've never heard of any such thing" As it turned out, this reaction was far more common than one might expect – extending across classes and groups; some university students showed the same unfamiliarity with the concept. (Ezzat 2007)

For those involved in illegal music copying, however, the small profit margin to be made on unlicensed CDs matters significantly to their livelihood. Illegal "cocktail" cassettes can secure LE1.50 profit per copy (less than \$0.30), and these are sold on a large scale to the poorer segments of

15 An interesting example of the precedence of cultural norms with respect to sharing of cultural goods is found in Lawrence Lessig's *Remix*, albeit in a different environment. Lessig recounts how a teenager sitting next to him on the plane was offended by Lessig's offer to pay for watching one of the young man's (copied) DVDs, as the latter explained that he "was happy to lend" without any interest in a monetary return for such sharing (Lessig, 2008, 145). It is the youth culture this time, but it is a reminder that the price mechanism which can be loosely taken as a proxy for copyright, can be over-ridden by cultural norms.

society. In the context of the low level of people's incomes in Egypt, this makes "pirating [...] a very lucrative industry indeed" (AmCham 2005).

In fact, one cannot study law enforcement in the music industry, or in any other industry for that matter, in isolation from general development indicators, especially poverty. If one adds the perception of music as a "light" field – a luxury good – then it is not difficult to understand the poor man's perception that no one is hurt by the prevalence of illegally copied CDs. Copyright loses its meaning in this context.

The legal reality

But the law is there, and in place. Copyright protection falls under Egypt's IPR Law no. 82, passed by the government in May 2002 in line with the country's obligations to the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement.¹⁶ By virtue of the law, copyright protection is offered to artistic and literary works, computer programs and audiovisual works. The law grants musical recordings copyright protection "for 50 years from the recording date if owned by a company and for 50 years after the death of the author if owned by an individual" (Egypt IP Law no. 82 2002, Arts 160-165). Copyright violations are subject to monetary penalties and imprisonment – fines ranging between LE5,000 (roughly equivalent to \$900) to LE10,000 (roughly equivalent to \$1800) per infringement and/or prison terms of at least one month (Egypt Law no. 82 2002, Art. 181).

While the copyright law is there, its enforcement in Egypt is weak. Responsibility for enforcement of copyright falls under the jurisdiction of the Information Technology Industry Development Agency (ITIDA) for software, and under the jurisdiction of the Ministry of Culture for other materials including music. According to IIPA, Egypt's Ministry of Culture has not been active enough in checking copyright infringement, and in most cases the results are described as "non-deterrent fines" (IIPA 2009, 1). In 2007, the fine for the first lawsuit regarding Internet piracy in Egypt by order of a preliminary court ordered the defendant to pay LE10,000 (\$1800), which IIPA considers insufficient (IIPA 2009, 3).

16 Even before becoming a party to the Trade-Related Aspects of Intellectual Property Rights (WTO 1994), Egypt was a party to other international agreements aimed at protecting intellectual property rights, including the Paris Convention for Protection of Industrial Property (1883), the Berne Copyright Convention (1887), and the Madrid Convention (1954).

This pattern of weak enforcement may be partly because the seriousness of illegal music copying or downloading in Egypt pales in comparison to crimes with more visible victims. In addition, in a country with a political makeup like Egypt's, cracking down on illegal music copying may be viewed as a low government priority compared to political dissidence, especially at times when political stability is contested. The same applies to Internet downloads and file sharing, the gravity of which is overshadowed by the potential political threat coming from the Internet content of bloggers. It may thus understandably be a low government priority.

In an attempt to promote compliance with the law without dedicating significant financial resources to enforcement, the government has also resorted to religious condemnation of illegal music copying. Indeed in 2002, Egypt's grand mufti condemned piracy as "one of the worst forms of theft and [...] prohibited by Islam, hence adhering to the religious discourse to the fight against piracy" (AmCham 2005).

An additional problem associated with enforcement of the law is bribery. In one case, counterfeit cassette tapes were confiscated in a raid on an illegal replication plant and the counterfeiter was arrested. When it was time for evidence to be presented, however, a bribe was paid and the bootlegged copies were replaced by the original legal tapes, which led to the case being dropped (Tosson, in AmCham 2005). There have, however, been other more successful efforts at catching illegal copying. A famous case is when a police raid in 2003 caught 2 million counterfeit cassette tapes of Arabic music. This was done in coordination with IFPI and the Egyptian Central Association of Audio Producers (ECAAP), an official body representing the interests of the recording industry in Egypt (Attalah and Said 2003, IFPI 2003).

In short, while the legal system has been formally laid out, in practice the level of IP enforcement has been modest at best. Efforts at fighting illegal copying are sporadic and inconsistent. Although the IIPA and the American Chamber of Commerce call heatedly for improved enforcement, one may argue that these efforts are unfitting to the economic and sociocultural realities of the country.

In particular, Lessig's call for "reforming law" is very relevant to Egypt, especially as he calls for "decriminalizing the copy" and "decriminalizing file sharing" (Lessig 2008). Both copying and file sharing are rampant in Egypt. Efforts and resources allocated by the state to stop them are not

effective, and, as we have seen, are not stopping flourishing models of music production and delivery either. Egypt's scarce resources, therefore, could be better directed toward devising suitable IP models that fit and encourage the existing commons-based nature of music production and delivery in Egypt, taking into account the country's socioeconomic realities and weak institutional structures.

Conclusion: two verses, a “common” refrain?

While enforcement of copyright on music is weak in Egypt, a vibrant live music scene is thriving outside the IP system, thanks to the culture of wedding performances and live parties. In both the mainstream and alternative music worlds, live performances and not the copyrighted recordings constitute the prime source of musicians' incomes. From the perspective of musicians and their fans, then, the relevance of copyright becomes questionable. At best, the copyrighted recording becomes a reputation device to promote the musician; a goal served even more efficiently by the free sharing of music, legally or illegally.

For both the popular stars and the alternative musicians, the live music scene offers profitable models of music generation and delivery, flourishing in parallel to an existing but seldom respected or enforced copyright law. This creates a world of de facto commons, wherein the interests of musicians and users are brought closer, without much need for copyright protection. This commons-based approach to music production aligns very well with the nature of music as a quasi-public good, and seems to be a more suitable platform for Egyptian artistic production, which is born to a gift culture that rejoices in sharing and gives little attention to individuality.

The importance of recorded music sales to musician incomes in Egypt has been greatly exaggerated. Both the mainstream and alternative music stories present a scenario whereby direct monetary benefit to the musician out of copyrighted recordings is quite modest. Whether the musician gets a percentage of reported sales or a lump sum, what reaches him or her at the end of the collection chain – given the leakages, the illegal copying and downloading, the decline in music sales, and questionable accounting – ends up as negligible. In this context, copyrighted recording and video clips mainly serve as reputation promoters or marketing devices. The primary source of earnings for musicians is the live performance, which flourishes thanks to the country's social and cultural heritage.

Whether pop or alternative, the musician will always seek the live performance, through which he or she will receive the direct return on creativity. The social commons acts as a medium of bringing music creators and users together, without much need for the label, nor indeed copyright. Because the livelihood of musicians ultimately depends on the social commons as the means of music production and delivery, it will continue to be secure, regardless of any spread of illegal music copying. In fact, there are strong reasons to believe that a freer trade in recorded music would boost musicians' incomes. Recorded music whets the public appetite for live performances which, particularly for alternative acts, are the only way for a greater variety of musicians to have a shot at entering the industry.

Only the distributors of copyrighted recorded music stand to lose from this freer trade, because their monopolies over particular artists will disappear. They will be forced to really compete with other distributors. But, this is a loss only from a very narrow perspective. This fuller competition opens up business opportunities for smaller actors, online distributors and street distributors, eliminates the cost to the state of policing illegal copying, enhances consumer access through the lower prices that competition generates, and protects the moral rights of artists to perform and distribute their works wherever they want. From an ethical frame of reference that maximizes benefit to artists and consumers, the choice seems clear.

As such, the *de facto* commons that emanates from the bottom-up practices of Egypt's music industry should be embraced as an appropriate solution toward resolving the tension between promoting incentives for music creators and access for music users. This is a more suitable alternative for the country than maximalist copyright protection, which deals with music as a private good and works primarily to the benefit of the record label rather than that of the artists and the users. Egypt should capitalize on and expand models that rely on the social commons and that allow music to be experienced as a social good. The commons-based approach is more in line with the notion that music is a quasi-public good, whose value increases with the number of users.

Embracing a more commons-based approach to music does not mean that there will be no profit-making opportunities for large companies. As described in this chapter, the major Egyptian labels already profit from the distribution of music on a commons-based model, by broadcasting video clips on satellite channels and generating revenue through advertising and

SMS contests. Mobile phone companies and Internet service providers also stand to gain from increasing access to free music, which will drive more Egyptians to seek subscriptions. Another suggestion in this regard is an online subscription model that incorporates social networking, virtual gift giving, and holding virtual parties. Such formats would be highly suitable to the Egyptian culture and practices of accessing music.

The live music scene in Egypt offers a special form of the commons. I call it *de facto* commons because it represents practices that have naturally emanated from the bottom up without any deliberate action or conscious decision on the part of any organizing agency. Considering the earlier analysis of music as a quasi-public good, perhaps what the live scene in Egypt exemplifies is a model of a quasi-commons: to a large extent non-rivalrous, but still excludable. Many are invited to listen, some pay, but prices are significantly more affordable than buying an authorized CD. Not everyone gets in. In most venues, some people are excluded, because there is a shortage of space or because the group needs to charge an entry fee to cover their costs of production.

On a wider scale, music is freely shared and exchanged, sometimes formally in the case of alternative musicians, at other times illegally in the case of unauthorized copied and shared music. Perhaps it is time Egypt's music scene expanded into a fuller commons accessible to all audiences, including the poor and the geographically marginalized. This fuller commons is realized to the extent that recording technologies make it possible to expand the audience beyond the live one, and copyright barriers to file sharing, radio broadcasting, and CD sales are removed, or ignored, to make the music affordable to a wider audience. Musicians will continue to earn from the live scene, and indeed, many more musicians may become known through the wide and free sharing of music and alternative distribution mechanisms. Enabling aspiring musicians through such venues is an added value from an access to knowledge perspective.

Acknowledging and accommodating the *de facto* commons in Egypt's music industry though a more flexible IP regime can ensure that tension between creators and users will be further eased, officially this time, albeit at the expense of the middleman. But that is precisely one characteristic of the digital economy: the shrinkage, or at best evolution, of the role of the middleman in light of the prevalence of the Internet as a medium of bringing producers and consumers closer together. The trade-off between access and incentives will be further resolved, as free access to consumers

will act to promote the musicians who will still find space for expanding their earnings from the ever flourishing live scene.

On a final note, the lessons learned from Egypt's music industry echo other models that create value based on the free sharing of knowledge and that are witnessed in other industries. In the software industry, for example, for-profit business models are built around freely shared open source software. As a knowledge-embedded good, digital music shares its cost structure with software: expensive to produce the first copy, yet inexpensive to reproduce and distribute additional ones. A similar cost structure may exist in the area of pharmaceuticals, where significant research expenses are involved at the early stage, but later manufacture can be achieved at low cost. In such circumstances, resolving the incentives-access trade-off does not require creating an IP monopoly, but rather realizing and taking advantage of the economic virtues of sharing. The common refrain, then, is also heard in the case of other knowledge-embedded goods, where knowledge sharing can be incorporated into business models that generate value for both producers and consumers, offering a more suitable alternative to intellectual property protection.

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