

## Public-Private Cooperation in Combating Counterfeit CDs – Private Sector Perspective

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### Introduction

- My background: Government, law enforcement, private sector
- Your interest: The specific IP protection problems in Botswana and Swaziland
- Effective training: Sharing information that has practical value

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### Shongwe Attacks Music Pirates

Article in Swazi Observer (May 31, 2006)

In an attempt to clamp down on piracy, top gospel musician Pastor Elias Shongwe of Shongwe and Khuphuka Saved Group yesterday embarked on a lone crusade and seized fake CDs and cassettes from street vendors.

This rather unusual incident happened yesterday morning at around 9 at the Mbabane bus rank. The gospel artist posed as one of the buyers to the unsuspecting pirates and succeeded in walking away with five music cassettes.

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## Local Artists Nab Pirates

Article in Mmegi/The Reporter (Gaborone) (June 6, 2006)

Tiro Baikananyi, Phikwe based Panstsula artist who goes by the stage name Tyrozee, has complained about music piracy after catching a trader in Francistown selling his album illegally.

"It was after a tip by a fan that I was alerted and took a trip to Francistown, where I located the pirate. I pretended to be a genuine customer and asked for a 'cheap' copy of the Tyrozee album, and to my shock, he opened a trunk full of the pirated album. I disclosed my identity and ended up seizing the trunk with the pirated material and took it home to Phikwe," he said.

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## Starting points for public-private cooperation

- Mutual understanding of the benefits of IP protection and the costs of piracy
- Practical understanding of the scope and nature of the problem
- Shared commitment to improving conditions in three interrelated areas
  - Legal framework and operation
  - Education and awareness
  - Enforcement

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## Legal Framework and Operation

- The foundation: The law must protect IP rights and provides remedies; government authorities must be empowered to act (*ex officio* authority)
- Maintenance: The law must keep current with evolving standards and emerging problems (vinyl to digital; the race to the bottom)
- Key objectives: The legal framework must operate so as to ensure
  - Transparent processes (credibility, consistency, confidence)
  - Deterrent penalties (above the cost of doing business)
  - Expeditious outcomes (justice delayed is justice denied)

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## Public Education and Awareness

- Proclaim the law throughout the land (address demand)
- Set a good example (e.g., the EO, clean streets initiatives)
- Place government imprimatur on private sector outreach efforts (Malaysia)
- Publicly support private sector enforcement campaigns
- Publicize governmental enforcement actions

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## Enforcement

- Dedicate sufficient resources
- Conduct training of all relevant personnel (police to judiciary; specialization and coordination)
- Establish and follow a strategic action plan
  - Target blatancy (high traffic, high volume retail)
  - Eliminate domestic production facilities
  - Strengthen border protection
  - Keep sight of education component
- Be consistent not sporadic; sustained not time-limited (pirates adapt)

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## Practical lessons about IP protection

- Hire pirates
- Hire ex-cops
- Encourage reports
- Avoid glass houses
- Start teaching early
- Practice local politics
- Pitch a big tent
- Offer donuts
- Keep up with the Joneses
- Learn from the Joneses

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## Recording Industry of South Africa <http://www.risa.org.za/piracy.php>



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## Recording Industry of South Africa

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