

MIDLANDS STATE UNIVERSITY



FACULTY OF SOCIAL SCIENCES

DEPARTMENT OF MUSIC AND MUSICOLOGY

Research Topic:

Zimbabwean Copyright Law and its effectiveness in protecting composers' Intellectual Property Rights.

JANE BANDA

R0723161L

This research is submitted in partial fulfilment of the requirements of the Bachelor of Science Honours Degree in Music and Musicology in the Faculty of Social Sciences at the Midlands State University.

MAY 2012

Supervisor: Mr P. Matiure

Table of Contents

Title	Pages
Contents	i
Approval Form	iii
Abstract	iv
Acknowledgements	v
Dedication	vi
List of Tables	vii
List of Figures	viii
Acronyms	ix
CHAPTER 1	1
1.0 INTRODUCTION	1
1.1 Background to the problem	1
1.2 Statement of the problem	4
1.3 Objectives	5
1.4 Research Questions	5
1.5 Significance of the study	6
1.6 Assumptions	6
1.7 Limitations	7
1.8 Delimitations	7
1.9 Definition of terms	8
1.10 Conclusions	8
CHAPTER 2	9
2.0 LITERATURE REVIEW	9
2.1 Introduction	9
2.2 Who music composers are	9
2.3 Copyright Law and Intellectual Property Rights	10
2.4 History and development of Copyright Law	12
2.5 Who owns copyright in a musical work	12
2.6 The Collecting Society in Zimbabwe	13
2.7 Duration of Copyright	14
2.8 How composers have benefited from copyright law	15
2.9 Rights protected by copyright law	15
2.9.1 Economic rights	16
2.9.2 Moral rights	16
2.9.3 Mechanical rights	17

2.9.4	Performing rights	17
2.10	Copyright Infringement	17
2.11	Piracy	19
2.12	Conclusion	23
CHAPTER 3		24
3.0	METHODOLOGY AND RESEARCH DESIGN	24
3.1	Introduction	24
3.2	Research Design	24
3.3	Population, Sample and Sampling Procedure	25
3.4	Research Instruments	25
3.4.1	Questionnaires	25
3.4.2	Interviews	27
3.5	Data collection procedure	27
3.6	Data presentation, analysis and interpretation	29
3.7	Conclusion	29
CHAPTER 4		30
4.0	DATA PRESENTATION, ANALYSIS AND INTERPRETATION	30
4.1	Introduction	30
4.2	Responses	30
4.3	Conclusion	40
CHAPTER 5		41
5.0	SUMMARY, CONCLUSIONS AND RECOMMENDATIONS	41
5.1	Introduction	41
5.2	Summary of the results	41
5.3	Conclusion of findings	42
5.4	Recommendations	43
5.5	Conclusion	44
	References	45
	Appendix 1	46
	Appendix 2	47
	Appendix 3	48
	Department Letter	49
	Release Form	50

APPROVAL FORM

The undersigned certify that they have supervised the student. Jane Banda’s dissertation entitled. “Zimbabwean Copyright Law and its effectiveness in protecting composers’ Intellectual Property Rights,” submitted in fulfillment of the requirements of the Bachelor of Sciences Honors Degree in Music and Musicology at Midlands State University.

.....

SUPERVISOR

.....

DATE

.....

EXTERNAL EXAMINER

.....

DATE

Abstract

The purpose of this study is to gain insight on the Zimbabwean Copyright Law and its effectiveness in protecting music composers' intellectual property rights. The research outlined the background to the origin of copyright law and it aimed at investigating how this copyright law has helped music composers benefit from it. The researcher used descriptive research where interview guides and questionnaires were distributed to some of the music composers registered with the Zimbabwe Music Rights Association.

A Sample of music composers participated in the research and they represented the whole musicians. Random selection was used and questionnaires were distributed to music listeners and composers. The findings show that not all music listeners know and understand the copyright law and what it offers to music composers so that they benefit from their intellectual property rights. Music composers on the other hand know and understand how it has helped them in protecting their intellectual property rights. Conclusions drawn from the literature review as well as the data collected and data collected and data gathered indicate that there is need for more workshops to be done so as to educate both music listeners and composers so that they really understand the significance of copyright law.

The researcher recommends that music listeners and composers should realize the effectiveness of copyright. It is therefore the researchers hope that this research will help music composers become conscious about Zimbabwean copyright law and its significance to their musical growth and protection of their intellectual.

Acknowledgements

Firstly I would like to thank the Lord Almighty for he is the one who granted me the opportunity to study this degree programme. I will never cease to thank you Lord for you are my source of inspiration.

My gratitude also goes to the Zimbabwe Music Rights Association (ZIMURA) staff members for according me the chance of doing my work related learning at the organization. My experience at the organization has a great impact in my research.

To my family, I appreciate the support you gave me spiritually and financially. I would not have been here today without you. Your encouragement and assistance through my studies is highly honored.

Reverend J.C Juma you were there to encourage me to have confidence when I was doing my research and I appreciate your concern towards my studies. I thank you for every word you said as a way to direct me.

My last acknowledgement goes to my supervisor Mr. P. Matiure who has been guiding me to come with this research. I say thank you for the discussions and ideas you gave me which helped me to come up with this research. Thank you for the job well done.

God bless you all.

Dedication

My dedication goes to my family. Dad, Mum, my brother Blessing and my twin sister Jean, I love you all.

List of Tables

Table 4.131
Table 4.231
Table 4.336
Table 4.437

List of Figures

Fig 4.1.....	32
Fig 4.2.....	32
Fig 4.3.....	33
Fig 4.4.....	33
Fig 4.5.....	34
Fig 4.6.....	35
Fig 4.7.....	36
Fig 4.8.....	37

Acronyms

AMCOPS	Australian Mechanical Copyright Society
APRA	Australian Performing Rights Society
IPR	Intellectual Property Rights
ZIMURA	Zimbabwe Music Rights Association
ZIPO	Zimbabwe Intellectual Property Organization

Chapter 1

1.0 INTRODUCTION

1.1 Background to the problem

Zimbabwean music industry is looked down upon by the society. There are some people who regard music to be something which is not important and hence they do not abide by the Copyright Law. Traditionally, music listeners view the music industry as a sector of the poor, or people who have failed their formal education and are seeking solace in music. Other listeners view the sector as a glamorous one flourishing with riches and fame. However, it is not always the case that all musicians are not educated because there are musicians who are well educated. These are for example the likes of Willis Wataffi, Albert Nyati, Cynthia Mare and Kudzai Sevenzo only to mention but a few. Other composers like Dudu Manhenga and Charles Charamba are doing studies on music with the Zimbabwe College of Music so as to broaden their musical intelligence. Society fails to understand that everyone has his or her talent different from each other. Musicians are important because they provide entertainment just like any other professionals.

In Zimbabwe there are some musicians who have made it to the top and are living a luxurious life. Examples are the great Oliver Mtukudzi, The Charambas, Shingisai Suluma, Chioniso Maraire and Alick Macheso only to mention but a few. There are those composers who are not well established in their personal lives. This is judged by the way they live their lives and also the places where some of them live show that they are not earning enough money to take care of themselves. The reason for them not living a good life is because they have music as their only source of income and the royalties they get once a year does not cater for all their needs. Freddy Chimombe has failed to carry on with his music career due to illness which has led to him being inactive in the music industry.

Ruth Butaumocho in an article she wrote in the Daily News on the 14 March 2011 had the following views on the greatest musicians who have passed on. She mentioned that the majority of music practitioners are economically marginalized and most of them are mainly celebrated after their passing on. They are for example the late Augustine Msarurwa, Paul Matavire, Biggie Tembo and John Chibadura. It appears that these composers' fame and fortune faded away with their death. These were great composers but they died poor. These composers also suffered great

injustices while people were enjoying their music the world over. However, the researcher does not necessarily think that musicians should be rich but at least they have to benefit from their works. The music legends did not enjoy the fruits of their labor as they did not fully benefit from the Copyright Law. Most of these legends also did not have proper management.

There is widespread ignorance by society regarding the copyright law and protection in Zimbabwe. Mhiripiri (2006:79) says that, "It is the duty of the composers themselves to see to it that their works are protected by copyright" although they cannot do it by themselves without the help of the copyright law. In the past musical works were not given enough credit and they were not protected as the songs that people of the past mostly sang traditional songs and no one knew the composers. It was then recognized that there was need to protect works for the benefit of authors and composers. In order to encourage the composition of music to these music composers, some form of protection is needed. Upcoming artists will not hesitate to join the music industry because they will know that the songs they compose will be protected by copyright law. The works should be protected so that one would not temper with someone's intellectual property. That is how the Copyright Law was introduced so that composers get paid from their intellectual property. In Zimbabwe the Copyright Law is governed by the Copyright and Neighboring Rights Act [Chapter 26:05]. The author of a song is entitled to a fair share for the use of his or her works by other people. If one uses the work without the owner's permission then that person has infringed copyright.

Music keeps our lives going and thus it is important in our daily living. For these reasons, music composers should be given what is due to them because they are the ones who create the music and they are trying by all means to enhance the society's way of life. Most of the musicians in Zimbabwe produce their music so that they earn a living; the money brings food to their tables. They earn the money through the payment of royalties on their works which have copyright and also through the gate takings they collect when they have their live performances. It is therefore it is ZIMURA's duty to see to it that these musicians benefit from their works.

The Copyright Law in Zimbabwe is an issue that needs to be given a lot of attention especially towards authors and composers of music. Much of the works of musicians are not reaching the owners expectations due to people who are not abiding with the Copyright Law. The Copyright Law that is the Copyright and Neighboring Rights Act Chapter 20.05 states that, "...no one should perform a song without the owner's permission." All the premises that play music have to

possess a Music copyright License. This license will ensure them that they have permission to use music composed by other people. They don't have to necessarily go to each composer and seek for permission but some license inspectors from the Zimbabwe Music Rights Associations grant the permission on behalf of the composers. There is however a challenge on this issue of paying the license because some people do not understand why they have to pay the license. This therefore means that society at large is not aware of the importance of the Copyright Law in Zimbabwe. Awareness workshops should be conducted by the responsible organizations in this case ZIMURA and ZIPO so that the society gets to know the importance of copyright law. Hence, society should have knowledge on the need to abide by the Copyright Law for the benefit of music composers.

Some people fail to understand that musicians depend on the money from their CD sales and thus the society should stop the act of piracy. The Copyright Law also does not allow for the dubbing of music at home. This act of dubbing is disastrous to the music industry and the recording companies too. Composers are losing a lot of money and all their efforts are becoming fruitless. In Zimbabwe renting and lending of music records is also allowed again costing the music industry a lot of money. Some people do not know about the Copyright Act Law and they need to be educated on the issue so that they will not be caught on the wrong side of the law. By so doing, it will mean that the composers will have a full benefit from their works.

For a musical work to be protected, it has to be registered by the Zimbabwe Music Rights Association. Registration involves the composer applying for membership and an amount of \$10 should be paid as registration fee. Anyone who composes songs is eligible for membership. ZIMURA rule requires that the composer must have at least two recorded songs for them to register. By registering works it means that all over the world the works will be protected. A person has to first ask for permission so as to use the song. Works are protected in the territories which adhere to the Berne Convention. This is an agreement among countries whereby signing the treaty meant that the country promises to protect all the intellectual property of the countries which have signed. In the countries which signed the agreement, there are societies like ZIMURA and they agreed to protect works from other countries. Just as the works of Alicia Keys are protected in Zimbabwe so are the works of Oliver Mtukudzi protected in England and other foreign countries.

Copyright as defined by Mariwo (2004:1) is, "...the legal term that describes the exclusive rights given to authors for their original work." In some cases authors have assigned all their works to third parties because they do not understand what the Copyright Law is. Mariwo (2004:1) encourages these authors not to be ignorant but rather have knowledge on Copyright and, "how to enforce it so that they realize the maximum benefit from their creativity." Most composers claim that their works have been misused by recording companies after they sign contracts that only benefit these recording companies at the composer's expense. These recording companies and bandleaders also claim ownership of songs they did author. The reason behind this exploitation according to Mhiripiri (2006:80) is due to the ignorance of copyright law by any one of the people involved in the production of a composer's song.

The Copyright and Neighboring Rights Act [Chapter 26:05) which contains the law governing the Copyright Law also defined copyright as, "The exclusive right given by law for certain period of time, to a composer or author to control the use of the works of his mind." The author is in total control of his works as well as the shares of the earnings from its use. Copyright Law protects the authors' words and arrangement of song as well as musical notes. If there is more than one person in ownership of a work then they all have equal rights to the song. The authors are allowed to assign copyright of their works. A work is copyrighted from the very day it is created and lasts until fifty years of the authors' death. In Zimbabwe for a musical song to be protected it has to be registered and the registration process includes writing all the lyrics of the song. The lyrics are stamped to indicate that they are protected.

1.2 Statement of the problem

The purpose of this research is to assess the impact of the Copyright Law in Zimbabwe and its effectiveness towards the composers and authors of music in Zimbabwe. The society at large has little or no knowledge on how the Copyright Law works and hence they abuse the music composers' rights. The researcher therefore investigated if the music composers are benefiting from the Copyright Law and what they think should be done to make sure their works are protected. Thus the statement of the problem is how effective is the Zimbabwe Copyright Law in protecting composers' intellectual property.

1.3 Objectives

The objectives of this study were;

- To understand what Copyright Law is.
- To identify the beneficiaries of the Copyright Law.
- To investigate if music listeners are abiding by the Law.
- To understand what piracy is and how it has affected the Copyright Law.
- To establish whether the Zimbabwe Copyright Law is effective in protecting composers' intellectual property.

1.4 Research Questions

The study attempted to answer the following questions about Copyright Law and protection of composers' intellectual property:

- What is Copyright Law?
- How does the Copyright Law function in terms of protecting composer's rights?
- Who is the beneficiary of the Copyright?
- What is piracy and how does it affect the Intellectual Property?
- How effective is Zimbabwe Copyright Law in protecting composers' intellectual property?

1.5 Significance of the study

This research is going to benefit all the musicians as well as the upcoming artists in Zimbabwe. Some may hesitate to join the industry thinking that there will be nothing to gain by becoming a musician. The researcher will shed more light on how the Copyright Law in Zimbabwe works and how it has helped the musicians of Zimbabwe. When people read this research they will have a clear picture of how the Copyright Law has helped authors in Zimbabwe. This research will also be an eye opener to organizations of Zimbabwe to realize that they indeed also have a role to play in the development of music in Zimbabwe. These organizations include the Zimbabwe Broadcasting Corporation (ZBC), Zimbabwe Intellectual Property Organization (ZIPO) and Zimbabwe Music

Rights Association (ZIMURA) among others. The society will also benefit from the research. They will realize that the musicians also need support so that they keep the music industry going. Without their support the musicians will not have a better life and if they leave the industry then it means there will be no entertainment for the people. It is also the researchers hope that the study will enable the society to recognize the role of musicians in the society and thereby treat them like any other people in the society. The searcher also hopes that the findings of this study will benefit the communities at large because the society will get to understand what is hidden when the responsible authority talk of copyright in music. Music is not restricted to anyone because everyone is allowed to listen to music and they all contribute towards the music industry by saying out what they think about the copyright law.

1.6 Assumptions

Assumptions are the expectations that the researcher had towards the research. The research has the following assumptions;

- The selected sample will give all the accurate and necessary information.
- The respondents will not be biased.
- The gathered information will represent all the views of music composers on the issues of Copyright Law.
- There is a law that protects music composers.
- Some artists are not protected by the copyright law or ZIMURA.

1.7 Limitations

This research might not be able to give all the information because there are some problems which can arise. These factors include lack of response from the interviewees and biased information from respondents. The problems which might be encounter are beyond the researcher's. Examples of these problems are,

- The respondents may give biased answers.
- Some respondents may not be willing to answer the questions.
- The targeted population may not be able to exhaust all the information needed by the researcher.
- The researcher may fail to distribute all the questionnaires to all the respondents due to lack of time.

- The researcher may not be able to make frequent visits to the destination where the research is being conducted due to lack of income.

1.8 Delimitations

- The research mainly focused on the registered music composers in Zimbabwe. Most of them reside in Harare and some composers reside and in Gweru, were the researcher resided during the time of research.
- In order to get manageable data the research instruments to be used will include questionnaires for music composers and interview for company Directors.
- There will be a selection of music composers from different genres.

1.9 Definitions of terms

This chapter contains some words which might be new. For one to understand much about the Copyright Law these words are defined below.

Contract is a signed agreement between two parties in this case music composer and recording company.

Copyright is the legal term used to describe the exclusive right given to a music composer for the creation of his or her works. Mariwo (2004:1)

Composer refers to a person who writes a musical piece and according to Marc et al (1999:19) a composers' "...specialty is thinking up musical ideas and then communicating ideas to others through singing.

Infringement is the act of using a composer's copyrighted works without getting permission from the composer or the people responsible for the copyright.

License is a legal document which is paid annually by music users.

Lyrics are the words that are written down for one to sing.

Music Copyright License is a document that is given to those who play music in public allowing them to play music on their premises.

Piracy is the illegal act of downloading or making duplications of a composers' work.

Royalties are the fees that are charged every time a copyrighted word is performed and these royalties are given to the music composer.

1.10 Conclusion

In this chapter the researcher aimed at introducing the topic to the reader. The researcher put into light the issue of the Copyright Law towards the lives of music composers in Zimbabwe. It is the researchers hope that the reader will be able to understand the background and significance of the Copyright Law.

CHAPTER 2

2.0 LITERATURE REVIEW

2.1 Introduction

This chapter mainly focuses on what these scholars have to say about the Copyright Law and its relationship with the music composers in Zimbabwe. The issue of Copyright Law and Intellectual Property protecting musicians' rights has been discussed by different scholars. The researcher also shares her sentiments about how the society is reacting to the Copyright law and what they are doing to make sure the composers are getting what is due to them.

Numerous researches have been conducted concerning the plight of musicians. Some of them embrace Mhiripiri and Shaw only to mention but a few. For them music, especially composition is also part of intellectual property which attracts the need to be protected. These and other scholars' views are going to be discussed in this chapter.

2.2 Who are music composers?

A composer is someone who writes a musical piece to be performed by a musician. It is not always the case that the person who writes the song is the one who is going to sing it. Some are good writers while others are good singers. For one to be a good composer they should be creative and have a strong background and passion for music.

The composer should also know about music composition, theory and notation. However, most composers in Zimbabwe do not have formal training though they are good composers. Tower et al (1999:19) says a composer, "...should know how to read and write notation." Composer should also be familiar with instruments or voice type you want to write for. Tower and Marc (1999:19) go on to say, "As a composer, your speciality is thinking upon musical ideas, then communicating these ideas to others through singing." When one has an idea they think is appealing to others, they should record the song. If the song becomes popular and accepted by the consumers, people will be calling the composer to write music for them.

For composers copyright is the means by which they earn a living. It gives them rights in their work which they can use to decide on who and how one can use their works. Being a composer has an advantage that one can generate income by composing and with time the composer gains experience and exposure. It is of great importance that composers are familiar with copyright concepts so that they get enough protection from their works. Mhiripiri (2006:82) says that

musicians in Zimbabwe need to value their musical works.

A composer can authorize the use of his or her works in a number of ways. A publisher is the one in charge of a composer's works and also has the power to license the copyright, according to Heins (2002:65). No one can do anything to a work that has been copyrighted. Heins (2002:65) also say the composer is the first copyright owner who assigns works to the published. The publisher then becomes the owner and gives permission for the use of the composer's works and also issues a contract. The composer or publisher then goes to a collecting society and they will do the licensing on behalf of the composer or the publisher.

Most composers claim that their rights are being violated after they sign contracts that will only benefit the recording companies. Mhiripiri (2006:80) Record companies sometimes ruin a composers' career and same applies to the band manager who can also claim ownership of songs they did not author. Mhiripiri goes on to say that the reason behind this is due to the ignorance of copyright law either by the composer or any other person involved in the production of a composers' song.

2.3 Copyright Law and Intellectual Property Rights

Copyright has been defined by different scholars. Mariwo (2000:1) defines copyright as "...the legal term that describes the exclusive rights given to authors for their original work." In some cases authors have signed all their works to third parties because they fail to understand what the Copyright law is. Mariwo encourages these authors not to be ignorant but rather have knowledge on Copyright and "how to enforce it so that they realize the maximum benefit from their creativity. Miller (2002:147) states that, "Copyright refers to the laws that regulate the use of the work of a creator, in this case a music composer." This implies that if a work is copyrighted; only the copyright owner is free to perform, reproduce and adapt the work in any way that pleases him or her.

A work is copyrighted if it is original and put into use and also if it is valuable. An idea is not copyrighted meaning to say a live musical performance which is not written down or recorded cannot be protected by copyrighted. It is the use of that idea that is copyrighted. For composers copyright is the means by which they earn a living. It gives them rights in their work which they can use to decide on who and how one can use their works. Mhiripiri (2006:82) acknowledges that, "Copyright gives its owner the right to use copyright material in order to create earnings and stops others from using the same material for the economic gain without the permission of

the copyright owner.” Mhiripiri goes on to say, “... Zimbabwe musicians need to value copyright highly and use effective structures for the protection of their rights and collection of royalties.”

The essence of copyright as stated by Feltoe (2003:12) is based on the right to make sure that there is prevention of original works to be copied. He goes on to define Copyright as, “... the sole right to produce any original literary musical work.” The copyright generally belongs to the author but, copyright must not be sold. The Law states that, “No person may reproduce any original work or substantial part of it” without the knowledge of the owner. According to Passman (1991:208) The legal definition of copyright is a limited duration of monopoly. Copyright is one of the leading branches of the legal sub-discipline known as intellectual property. If anyone has created a work or composed a song then they have created intellectual property. Composers want to get credit from their hard work after sharing what they create with others. Intellectual property rights therefore protect composers’ rights. A creator may force legal rights against any person who may want to use works without the authorization of the owner.

Shaw (2007:41) says that intellectual property rights are the rights of the mind which are protected against infringement by the copyright law. Freedom of expression is restricted by copyright “...as a person cannot copy or utilize the intellectual property of another for a certain amount of time.” The copyright law therefore entitles the music composers to be aware of their right so that they can be able to identify when one has violated the copyright law against their intellectual property rights.

2.4 History of the Development of Copyright Law Internationally

The history and development Copyright Law dates back to the early 1900s. Frith (1993:153) wrote the following about the development of copyright law which traced from the United States of America. Frith (1993:153) mentions that the first copyright statute was first enacted in 1909 and it protected music owners from piracy which he describes as unauthorized copying. Copyright commoditized the songs so that they could be sold and bought in the market places.

Petersen (1993:65) said that copyright law had no mechanism of collecting royalties from the public performance of music. That is what gave rise to collecting societies whose main duty was to issue licenses and collected revenues from the following, performances of the songs, sale of original products and money paid to the publishers for their share of the sales.

In Zimbabwe it is administered by the Copyright Office, through the provisions of section 87 of

the Copyright and Neighbouring Rights Act [Chapter 26:05] of 2000 which came into force on 10th September 2004. This Act is a repeal of the Copyright Act [Chapter 26:01] which superseded the Copyright Act, Chapter 201 of 01 January 1967, which itself is a development of the British Copyright Act of 1911 when Zimbabwe was a colony of Britain.

2.5 Who owns copyright in a musical work?

Authors and composers are the rightful owners of copyright. No one has the right to claim what he or she has not created. Mhiripiri (2006:82) says, "...the song writer may own copyright of the song lyrics and they are entitled to royalties whenever their songs are published, while vocalists and instrumentalists may own the copyright in a particular recording."

If two or more people create a musical work, the copyright belongs to all of them. This therefore means that when these composers want to assign copyright to anyone, they have to first of all agree amongst themselves to do so. In Zimbabwe there are many composers who have joint ownership especially urban groovers. These composers include Africa Revenge, Mafriq, 2BG, Extra Large only to mention a few. However, some conflicts may arise among joint composers of musical works causing them to split. For example, the group Africa Revenge has split and Willis Wataffi has gone solo. Although they have gone separate ways, the songs they composed together still remains joint ownership and in terms of receiving royalties, they get 50% each from these songs.

2.6 The Collecting Society in Zimbabwe.

A collecting society according to the Copyright and Neighboring Rights Act (Chapter 26:05) means, "A society or organization which has any or all of the following main objectives:-

- Acting for owners of copyright in the management of their rights in terms of this Act.
- The representation of owners of copyright in the negotiation and administration of license schemes.
- The negotiation or granting of licenses, either as owners or prospective owners of copyright or as agents of prospective owners of copyright."

The collecting society is called the Zimbabwe Music Rights Association (ZIMURA). The organization was incorporated by the Registrar of Companies in terms of section 22 of the Companies Act (Chapter 24:03). A certificate was granted to ZIMURA by the then Minister of

Justice and Constitutional Affairs on 22 March 1982. ZIMURA is a non-profit making organization whose main aim is collect royalties on behalf of registered music composers. All the money that the organization collects benefits music composers. Only 30% is deducted for administrative purpose, 10% is for the social fund and welfare. It was formed as an agent of the Performing Rights Society (PRS) whose main aim was to safeguard the rights of white composers.

The emergence of a collecting society is of significance to music composers in Zimbabwe. Music is played many times a day at different venues. It is therefore quite difficult for a composer to make follow ups on who is using his or her music on their premises. It is also not easy for music users to approach each composer seeking for permission to use their works.

ZIMURA is therefore the go between music composers and music users and these include radio and television broadcasting, hotels, shops, bars and beer halls only to mention but a few. All premises which play music publicly has to get a Copyright Music license from ZIMURA which allows them perform or play music publicly. The association grants a blanket license which entitles one to an annual fixed charge which enables music users to comply with the provisions of the Copyright Act.

Section 110B of the Copyright and Neighboring Rights Act (Chapter 26:05) states that the society can employ inspectors. The inspector has to first educate the premise owner on the need to pay the Music Copyright license. The licensing inspectors are responsible for collecting money from all music users and they licenses public places (bars, bottle stores, shops, restaurants, hotels etc) and broadcasting stations. No one should perform a composer's music with getting permission first. The owner benefits financially if someone wants to use his or her work. That is how the licensing department was introduced at ZIMURA so that music composers cannot make follow ups themselves.

The Act also mentions that authors and performers shall be entitled to royalties whenever their works are performed in public. Johnson and Lamb (1998:49) define royalties as fees charged every time a copyrighted is played or performed. The Spring 2003 (Issue 54) Newsletter states that, "Copyright enables composers to be paid for their work." It is the means by which those who create works can control who can or cannot use their works. Copyright ensures that the works of composer are respected in the society.

2.7 Duration of copyright

Copyright for a music production in Zimbabwe has its duration from the day it is created plus 50 years after the death of the owner, according to the Copyright and Neighboring Rights Act [Chapter 26:05]. Duration of copyright also depends on whether the owner is single or joint. If the owner is single, the Zimbabwe Music Rights Association urges the owner to write an heir who will be in charge of the copyrighted works when they die. The heir has to also write another heir to take ownership and the trend goes on and on. This therefore means that, as long as a work is registered it will always have an owner and the researcher can conclude that as long as the work is registered it will not expire because it will always have an owner.

In the case of joint authorship, copyright expires 50 years after the death of the last surviving author. Everyone involved has ownership to the work hence they all have equal share to the copyrighted work. It means that they all have a say when someone wants to seek for permission to use their works. Most joint ownerships are seen in the “mapostori” choral groups where more than three individuals have copyright ownership for a single work. The composers should write a will stating the heir to the copyright and this means that when a composer dies, the heir will be the one benefiting from the works.

When copyright expires, it means that the owner does not exclusive rights anymore. The works will now be in the public domain where everyone is free to use the music. Once a work enters the public domain, it loses its copyright protection permanently and can be used freely. In some cases, a composer can give their works to be in the public domain before they die though these are rare cases as composers would want to benefit from the creation of their works before they die.

2.8 How have composers benefit from the Copyright Law?

The Copyright Law is of significance to the music composers in Zimbabwe. It is through Copyright Law that most musicians are being educated about their music composition. It is only a few numbers of composers who are well aware of their rights as musicians. Hence, by getting to know what the copyright protects the composers will get to know their rights. Musicians benefit from the Copyright Law in Zimbabwe. Copyright grants authors exclusive ownership and legally allows them to deny others the privilege to use their works if they wish to do so. Copyright is a protection act and should abide by its principles.

Musicians are creators and copyright law says that creators have the right to gain economic value

from their creation. For example, if you write a song, you can charge money to let a movie, radio and television stations to use your song in their sound track. The law gives these rights as an incentive for creation. When creativity is encouraged, the public will benefit because more art will be available to the public. This view is echoed by Sanchez (2007:125) who is of the view that the public, rather the copyright holders is the true beneficiary of the law; He goes on to say, “We are the massive beneficiaries ...and not one of us did anything to deserve a lot of it.” This therefore means that the public benefits from the works they have not created.

2.9 Rights protected by copyright law

In the field of music, there are separate copyrights for the musical score and the lyrics. Each new arrangement of a musical score can acquire copyright, Tower et al (1999:19). There are a number of rights that the Copyright and Neighboring Rights Act mentions which are protected and, protecting these rights means that the composers benefit from their works. The protection provided by copyright to the efforts of music composers creates an atmosphere conducive to creativity, which encourages them to create more and it motivates others to create their works also. For a work to be protected under copyright law it must be original meaning to say it must not be copied from any other source. It must also be fixed in a tangible medium that is, it should exist in a permanent form so that it cannot be reproduced. Copyright is a form of legal protection that is given to different kinds of musical works which includes musical compositions, songs and lyrics. Copyright owners in Zimbabwe are provided with both moral and economic rights in their works. Music composers have benefited from their works through the help of these rights to be discussed below.

2.9.1 Economic rights

According to Mariwo (2004:5), copyright owners in Zimbabwe have the power to the authorization and enjoyment of the following acts of their works:

- Reproduction is right to the prevention of one’s works to be copied by others.
- Performing rights is right to control who performs a composers’ work in public.
- Recording rights is the right to the authorization of one’s’ works by others.
- Broadcasting rights is the right to allow the compeers’ works to be put on air.

- An adaptation right is the right to grant permission for the owners' works to be translated into another language, rearranged or to be remixed.

2.9.2 Moral rights

It involves the right to claim authorship of a work and the right to oppose it because it could harm the creators' reputation. Shaw (2007:49) says that the author has to be able to "claim authorship of their work as well as object to any mutilation of the work which is amoral to their owner and reputation.

The author has the right to be identified as the owner of his or her work. Mariwo (2004:6) supports what Shaw says adding that, "The author also has the right to claim authorship of his work and the right to object to any distortion, mutilation or any other modification which would be prejudicial to the author's honor and reputation" This therefore means that the copyright owner has to make sure that he is not ridiculed in any way in regards to his musical compositions.

2.9.3 Mechanical rights

The right to reproduce works. It involves the making of records, tapes, videos and CDs. The author normally assigns his mechanical rights to the publisher who then authorizes any reproduction of the works. The discussion of mechanical rights brings out the issue of piracy. Piracy is going to be discussed later in this chapter.

2.9.4 Performing Rights.

According to the Copyright and Neighboring Rights Act Chapter 26:05, it is the performers' right to prevent the unauthorised use of their works as given by him. The rights of a performer are infringed when one, without authorisation, either records a performance, imports and exports performances in and out of Zimbabwe, sells or hires a copyright owner's work without permission. The performer's rights include the following:

- Making a recording of a performance
- Broadcasting a performance live

Being remunerated for commercial use of sound recording of performance.

There is however some exceptions on the works eligible for copyright. The copyright in a musical work is not infringed when it is used for the purpose of

research or study. Also there is no infringement if a work is used for criticism provided that the author of the musical work is acknowledged.

2.10 Copyright Infringement

When music is performed without this license then there will be infringement of the right holder's legal rights. Infringements of copyright are common practises in the music industry in Zimbabwe. Copyright infringement, "means using the original work without the permission of the copyright holder" as posited by Kumar (2003:87). Copyright infringement is also defined by Miller (2002:48) as, "...the violation of any exclusive right held by the Copyright law." It refers to the action of one copying intellectual property without the right holder's permission. "Infringement means that copyright owners are getting substantially less return on their efforts and creativity." Goldman (1997:76).

In the Copyright and Neighboring Rights Act, section 51 states that copyright is infringed by anyone other than the owner uses another person's works without getting permission or if that person "...causes any other person do an act in Zimbabwe which the owner has the exclusive right to do or to authorize."

Copyright is also infringed by a public premise allowing music to be performed publicly without the possession of a Music Copyright License. By so doing these people will be misusing the rights of composers because they have to benefit from them playing their music on their premises. Mhiripiri (2006:82) is of the view that the copyright owner has to make sure that they take action when their music is infringed and they should therefore receive the appropriate compensation from the infringers.

As stated by Mariwo (2004:11), any person other than the owner who uses a work without the permission from the copyright owner, is said to have infringed copyright. Mariwo goes on to state that a person infringes copyright when they:-

- Copy works without the consent of the owner and if also they possess a device making such copies.
- Export or import works without the intention of personal use of the works.
- Exhibit or distributes the work in public.
- Export it for sale or hire.

Pasipanodya, an Intellectual Property consultant personally defines copyright infringement as the unauthorized copying of another's' work.

However, section 25 of the Copyright and Neighboring Rights Act [Chapter 25:05] states that copyright is not infringed if the work is performed, adapted, copied or reproduced for the following purposes:

- Research or private study
- Personal or private use
- Criticizing or reviewing if the owner is acknowledged
- Performance or broadcasting if the work is acknowledged

Copyright violation can damage one's time, money as well as reputation. One can face heavy penalties in cases of copyright infringement which may lead to a jail term. There are some measures that are taken if anyone is found guilty of infringing copyright. These people have to be punished because they would have stolen someone else's property thereby causing the copyright owner not to benefit from their work which is not fair on the part of the copyright owner.

There is need for the society to understand that rights and their limitations are significant in this digital era. Digital technology has challenged the music industry as it has increased avenue of distribution open to musicians. It has also given rise to fears of great infringement. Frith (1993:53) says this, "The introduction of digital technology for music production during the past decade has resulted in the development of new kinds of creative activities that have on one hand, exacerbated already existing problems in the conceptualization of music as a form of artistic expression and on the other hand it has demanded that even further distinctions be made in copyright legislation."

2.11 Piracy.

Piracy is the illegal downloading or reproduction of a composers' work without authorization. Piracy reduces the composers' earnings because by pirating the CDs; it means that the composers will not have the profits they expect to get. Although composers' works are protected by Copyright Law, they also depend on the money they get from the sales of their CDs. However if the CDs are selling at a high price then the consumers will not be able to buy them hence piracy takes place. The price of the CDs needs to be reviewed so that they will be affordable to the consumers therefore reducing piracy.

Piracy has been defined by many scholars and they also have different views on how piracy affects the music industry. Generally, piracy is stealing. An example would be of borrowing a

CD from a friend and then burning it for ones' own benefit and enjoyment. When it comes to digital recordings of copyrighted works, society think it is legal and they see it as the right thing to do. "There is no difference in illegally downloading or copying copyrighted music and stealing," as stated by Katers (2002:134). Budd (1999:87) also had this to say about piracy, "Music piracy typically involves a theft of intellectual property in the form of illegal distribution or obtaining music." From these definitions it is seen that piracy is a negative issue in the development of the music industry.

Sheena (2004:135) on the issue of piracy saying that, "Downloading illegal music is unethical because by so doing, one will be taking away from the artist who would have spend finance and time recording the album and distributing it to the audience." However one can say that downloading music is a privilege because one can get the album without paying for it.

Consumers find it cheaper to buy pirated music other than the originals because all they want is to listen to music. These consumers do not realize that the musicians will stand to lose a portion of their income as fans download albums without paying a record stores or labels. Artists have mainly two sources of income which are sales from the CDs and gate takings from the live shows. Franks (2006:134) says that if one does not buy the musicians' CD or pay for the music, the music composer, rights are being robbed. She goes on to say that, "When artists lose money for CD sales they are forced to charge more money for the live shows." It therefore means that if people do not pirate music then prices of live shows will be reduced. This means artist stands to lose a portion of his income as fans download albums without paying a record store or label. Software piracy is the most common type of infringement that most composers face. This is so because as Kumar (2003:87) posits, "Software is an easy duplication therefore making it vulnerable to infringement."

"Music piracy is the sharing and multiplication of unauthorized material, basically the music that one does not pay for." Williams (2001:130). Another scholar Taylor (2005:167) defines piracy as, "...the copying and distribution of copies of a piece of music for which the composer or recording company did not give consent." Nowadays music is found in many sites though not in a profitable way. The sites therefore make it inevitable for people to download music files online. Piracy has become a trend because of its increase of sharing illegal music making it impossible for music composers to benefit from their intellectual property.

There are different types of piracy and these were discussed by Williams (2001:130). He says

these types are pirate recording, bootlegging, counterfeit and online piracy. Pirate recording involves unauthorized duplications of the sound of legal recordings only. Bootlegging is the unauthorized recording of musical broadcasting on radio, television or live show. Counterfeit is the illegal pre-recorded music as well as unauthorized duplication of the original labels and packaging of a musical product. Lastly, online piracy is the illegal downloading of sound recordings from the internet.

Vollweiler (2009:167) alludes to online piracy saying that, "Music piracy is wrong ... bands that are trying to make it are losing their opportunity." He goes on to say that piracy will be totally gone because, "There is always a loophole on the internet." Taylor (2005:167) feels that although piracy hurts the artist, it helps as well. He says, "Piracy negatively impacts the whole industry I think there are ways for musicians to capitalize on it." This shows that scholars are at variance on whether the music industry benefits or loses due to piracy.

Almost every individual has performed this act of pirating music due to the emergence of technology. Transferring music from one cell phone to another is a form of pirating music and this makes composers not benefit from their works. Music pirates are found in various ways and some of them include those who download or upload music online illegally and those who have a large number of imitations of CDs for sale on street corners or flea markets.

Consumers find it cheaper to buy pirated music other than the originals because all they want is to listen to music whether pirated or not. These consumers do not realize that the musicians will stand to lose a portion of their income as fans download albums without paying a record store or labels. Artists have mainly two sources of income which are sales from the CDs and gate takings from the live shows. Franks (2006:134) says that if one does not buy the musicians' CD or pay for the music, the music composer's rights are being robbed. She goes on to say that, "When artists lose money for CD sales they are forced to charge more money for the live shows." It therefore means that if people do not pirate music then prices of live shows will be reduced.

Piracy reduces the composers' earnings because by pirating the CDs, it means that the composers will not have the profits they expect to get from the sales. Although composers' works are protected by copyright law, they also depend on the money they get from the sales of their CDs. However, if the CDs are selling at high price then the consumers will not be able to buy them hence they pirate the music. The price of CDs needs to be reviewed so that they will be affordable to the consumers thereby reducing piracy.

There are some reasons which cause people to decide on pirating music other than purchasing a legal and licensed copy of the music and these has effects in which have made it difficult for music composers to sustain in the music industry. Due to the accessibility of free downloads of music online, a number of people who purchase music legally has decreased. Artists are only receiving a small percentage in revenue from a CD which they create. Frost (2004:81) is of the view that, “The ever tightening copyright laws should help to dramatically reduce music piracy.” Stealing music is against the law and it betrays the composers’ and recording labels that create the music. Piracy ruins the careers of up-coming music composers and bands. It also destroy the livelihood of the entire music industry from the composers themselves, engineers, producer and retailers. The music industry also loses money in lost revenues and profits because of pirated music. Piracy affects the artists who would have spent time and resources to discover, develop and promote their talents.

Composers are very worried with the issue of piracy to the extent of composing songs for people to stop this illegal act. In March 2010, music composers engaged in an anti-piracy campaign which saw different artists marching in the city of Harare. They came up with a song entitled “Stop piracy” which featured the likes of Joyce Semeti, Busi Ncube, Dingimuzi Phuti and Emmanuel Thomas only to mention but a few. The song is telling people to stop pirating because it kills the music industry. In a recent article in News Day newspaper dated Saturday 17 March 2012; Afro-jazz musician Daniel Ngwira is said to have released a song entitled “Tine Basa” which features two popular music sensations Alexio Kawara and Diana Samkange. “Tine basa addresses piracy issues, the musician as a role model and need for artists to understand it is their role to keep revellers entertained...” reports Tinashe Sibanda. People are failing to comply with music composers’ cry of stopping piracy so that they benefit from their works.

2.12 Conclusion.

The Copyright and Neighboring Rights Act was implemented so as to ensure that music composers benefit from their intellectual property. Definitions of copyright and intellectual property, benefits of the law to music composers and function of the collecting society in Zimbabwe were among the issues discussed in this chapter. The reserchers’ views on how composers are benefiting from the law were supported by what other scholars’ views on the same issue.

CHAPTER 3

3.0 METHODOLOGY

3.1 Introduction

The methodology chapter introduces the research method and techniques used in assessing the effectiveness of the Copyright law in helping composers and authors in Zimbabwe. It outlines the research design, population and sampling procedures, research instruments and data collection procedures. The research methodology used was a combination of qualitative and quantitative methods.

3.2 Research Design

This study adopted a descriptive research and it allowed the researcher to describe the current situation on how music composers and authors are benefiting from the Copyright Law. Dhodyal (2007:76) notes that a descriptive research design is a process whereby the researcher is interested in describing a situation under study. The researcher was well versed with the respondents' attitude and opinion on the topic under study.

Research design can be understood as an outlined plan that a research follows when the study was carried out. Kumar (2005:175) defines research design as the plan the researcher adopts so as to answer questions. A research design provides a frame work for the collection and analysis of data collected and gathered in relation to the effectiveness of the Copyright Law in helping out music composers and authors in Zimbabwe.

A combination of qualitative and quantitative research was used as the methodology because from the data gathered through questionnaires included numbers while interviews generated descriptions. Qualitative research defined by Kumar (2005:91) as a research that describes events without the use of numerical data. Quantitative research consists of research in which data is analyzed in terms of numbers. The combination of both qualitative and quantitative increased the accuracy of the research findings. The researcher also achieved a wider and deeper understanding of the effectiveness of the Copyright Law in helping music composers and authors in Zimbabwe.

3.3 Target population

According to Denscombe (2007:52), a target population is, "...the group of interest to the researcher, from whom the researcher would draw a sample and generalise the results of the study." The target group of the research was the registered composers at ZIMURA. There

were a total of 2200 composer members at ZIMURA at the time of research.

3.4 Population, Sample and Sampling Techniques

As stated by Oliver (2004:32) the population is the total number of individuals to whom the research results applied to. The population consists of all the possible cases of what the researcher was interested in studying. In this study the population consisted of music composers registered with the Zimbabwe Music Rights Association (ZIMURA), organizations which deal with music composers as well as music producers and listeners. A sample according to Borg and Gall (1993:109) is a selection of a given number of subjects from a defined population. “A sample is a portion of the population that one wishes to study,” Gilbert (2001:129). The researcher chose composers who are registered with ZIMURA because they are the ones who understand what the Copyright Law is all about. The sampling technique used was simple random selection because were distributed without selecting any music listener or music composer.

3.5 Research Instruments

Research Instruments are the tools that the researcher used to get the information from respondents. Graciano and Raulin (2000:62) define research instruments as the data collection tools chosen by the researcher to achieve accurate research results. A research instrument is defined by Leedy (2001:98) as the tool used for collecting data needed to find solutions to the problem under study. The instruments used in this study were questionnaires for the composers and interviews for the organization, ZIMURA.

3.5.1 Questionnaires

A questionnaire is a written list of questions the answers to which are recorded by respondents. Fowler (1984:132) posits that a questionnaire is a form of enquiry, which contains a systematically compiled and organized series of questions that are sent to the population sample. The questionnaires were in two groups, open-ended for the music composers and closed-ended for music listeners and producers. This was so because the composers are the main subjects of copyright so the researcher wanted to hear their voice on the copyright law and its effectiveness in protecting their intellectual property rights. Music listeners were there to guide the researcher on how they interpret the copyright law and its effectiveness in protecting music composers.

Sarantakos (1995:123) says a questionnaire is a tool for collecting data, which uses a list of

questionnaires designed to get responses from respondents. Questionnaires can collect a large amount of data over a short period of time. Denscombe (2007:140) argues that questionnaires are economical as they provide a considerable amount of data for a low cost in terms of resources and time. Questionnaires also reduced the risk of anonymity as the participants did not disclose themselves after filling the questionnaire forms. All participants were presented with the same questions.

The researcher made use of open and closed ended questionnaires. Open ended questions generated quantitative data while closed ended provided for qualitative data. In open ended questions respondents were asked to express their views on the effectiveness of the Copyright Law to music composers. Closed ended questions do not allow respondents to express their views fully. They are restricted to answer yes or no only and they were given to music listeners in a hotel and shops. Combining open and closed ended questions allowed the researcher to have more understanding of how the Copyright Law has helped composers and authors in Zimbabwe. The use of questionnaires benefited the research because the respondents freely expressed their thoughts through open ended questions.

Open ended questions however require that the respondents clearly states what is in their minds without being biased. The researcher therefore had to make sure that the respondents are open with what they think the Copyright Law has done in helping composers and authors. Closed ended questions are easy to complete and they are also easy to process for data presentation. They however restricted the respondents as they were only basing on what the researcher asked them. This weakness of closed ended questions was covered by combining them with open ended.

Questionnaires do not have face to face interaction between the researcher and the respondents so it therefore provided the respondents anonymity and confidentiality. Leedy (1980:124) postulates that, "Use of questionnaires can permit the respondents to give considerable answers free from pressure that is generated by the researcher." A questionnaire was chosen for this research mainly because of its simplicity and low cost as a method of data gathering. Bell (2005:65) argues that questionnaires can be used effectively in relation with interviews.

3.5.2 Interviews.

The researcher also conducted interviews to the organization which mainly deals with music

composers and the organization is ZIMURA. Interviewed were the ZIMURA Director and Chairperson. Interviews were conducted as a way to get information from respondents on the issues relating to the effectiveness of Copyright Law in helping out music composers and authors in Zimbabwe. Bell (2005:67) defines an interview as a method that involves asking questions in a face to face manner. Interviews helped as they permitted the researcher to obtain data which might not be given from questionnaires. Interviews allowed the researcher not only to record verbal expressions from the respondents but also facial and bodily movement from the respondents.

The interview was significant in the study because it allowed the researcher to explain to the interviewee in cases where they would not have understood the question posed to them. The researcher had the chance to repeat questions or rephrase so that the respondents understood the questions and gave accurate information pertaining to the study. Participants also managed. The interviews may however have produced bias information if the respondents gave their responses so as to please the researcher. The researcher also managed to ask unbiased questions. Interviews provided qualitative data which enabled the researcher to explore and understand how the musicians feel about the effectiveness of the Copyright Law towards their works.

3.6 Data collection procedure

Kirsch (1999:90) defines data collection as collecting information through unstructured and semi-structured observations, interviews, documents and visual materials as well as establishing the protocol for recording information.

The first step was for the researcher to obtain a release letter from the departments' chairperson. This letter was used to seek for permission to conduct the research. After that the researcher had to go and do some interviews in Harare with authorities at the Zimbabwe Music Rights Association. Before conducting the interviews the researcher firstly familiarized and thoroughly studied the interview questions. A rapport was established by introducing the interviewer to the interviewer. This made it comfortable for the researcher to ask questions with ease. The interviews were conducted in English because that is the language the respondents' were comfortable in. The researcher made sure that the interviewees understood

the questions before they answered so as to avoid answering what is irrelevant. The respondents were free and answered the questions posed to them with ease showing that they really understood and had knowledge on the research under study.

Questionnaires were also distributed to music composers registered with the Zimbabwe Music Rights Association. These questionnaires' were open ended and the composers were free to say whatever they thought was right in answering the questions. Thirty questionnaires were distributed randomly to composers who attended the ZIMURA Annual General Meeting that was held on the 20th of March 2012 at the Andy Millar Hall in Harare. The researcher faced a problem because only five composers returned the questionnaires on the day. The rest wanted time to fill the questionnaires so follow ups were later made so as to make sure that the questionnaires were returned. However, not all the composers managed to return these questionnaires.

Closed ended questionnaires were also distributed to music listeners and producers. Everyone listens to music so the questionnaires were distributed randomly to those who listen to music in bars, shops, hotels, supermarkets and schools. These were easy to answer and a lot of people contributed and returned the questionnaires there and then. Producers also answered the same closed ended questionnaires. The producers were from three recording companies, one in Gweru and the other two in Harare. A total of 20 closed ended questionnaires were distributed and all of them were returned.

3.7 Data Presentation, Analysis and Interpretation

Firstly, the data collected was gathered and sorted according to the research instrument used. It was prepared for analysis by sorting and arranging it according to what method was used to get the information. Data collected from questionnaires was presented using tables, graphs as well as pie charts. The data was analyzed quantitatively and qualitatively.

3.8 Conclusion.

In a nutshell, the preceding chapter highlighted how the research was carried on. Included in the chapter were the population target and population, research instruments and how they were administered. Presentation of data was also briefly discussed.

CHAPTER 4

4.0 DATA PRESENTATION, ANALYSIS AND INTERPRETATION

4.1 Introduction

This chapter gives the presentation, analysis and interpretation of the data collected. The use of tabulation, graphical presentation and pie charts were used to examine and analyze the data collated through questionnaires to composers, listeners, producers and interviews to some organizations. The analysis of data in this chapter therefore comes up with the answers demanded by the research questions of this research.

4.2 Responses

A total of 50 questionnaires were distributed and 36 were returned. 30 of the questionnaires were distributed to music listeners and 24 were returned while 20 were given to music composers with 12 being returned. Questionnaire response rate was 72% and this implies that the data collected can be considered reliable. 67% of the responses were from music listeners while 33% came from music composers. There is a huge difference between the response rate because there are many music listeners than music composers in Zimbabwe hence the above results were obtained. The difference between the responses from music listeners and that of music composers is 34%.

The responses from the composers are representing all composers while the ones from music listeners represent all the listeners. Not all questionnaires were returned and the data the researcher got was not what she had expected but it nevertheless helped come up with accurate results. A total of 28% questionnaires were not returned but the researcher went on to use the available ones to analyze the data. The following is the description of the data obtained by the researcher.

SECTION A: DATA FROM MUSIC LISTENERS

Table 4.1 shows the number of questions asked, number of questionnaires distributed and number of respondents

NO .OF QUESTIONS ASKED	NO. OF QUESTIONNAIRES RETURNED	NO.OF DISTRIBUTED QUESTIONNAIRES	RESPONSE PERCENTAGE
7	24	30	80%

Table 4.1 Number of questions asked and how composes responded.

All in all there were seven questions which were asked to the music listeners. These questions were distributed to 30 music listeners and 24 of them were returned. The response was 80% meaning the data collected can be accurate. The high response rate from the music listeners shows that they like listening to music and hence they are also interested in seeing that the composers benefit from the use of their work which is their intellectual property. The listeners' views are however different on each question as they listen to different types of music. Table 4.2 shows the data or music listeners regarding their gender.

DEMOGRAPHIC DATA	NO. OF RESPONDENTS	PERCENTAGE
GENDER		
MALE	14	58%
FEMALE	10	41%

Table 4.2 Data from music listeners

Of the 24 music listeners that answered the closed ended questionnaires 14 (58%) were male and 10 (41%) were female. There were 4 (16%) males more than female, which imply that male's listen to music more than females.

Understanding of the copyright law by music listeners

Figure 4.1 shows how many music listeners know what the copyright law is

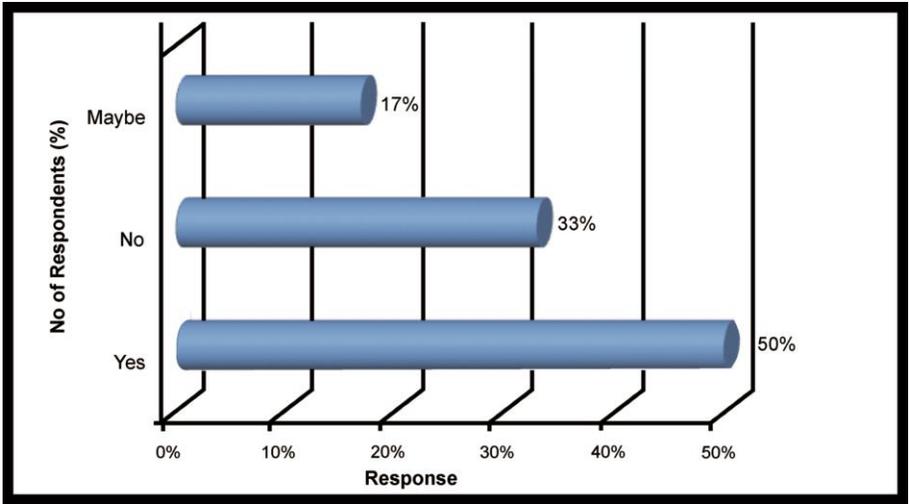


Figure 4.1: Knowledge on copyright law

Twelve (50%) of the music listeners asked understand what is meant by the copyright law, eight (33%) do not have any idea about the Copyright Law while four (17%) are not sure if they really understand what the copyright law is all about. This implies that though most of the listeners know about the law, there is still need for educating the listeners so that they fully get to understand the law so that they help music composers benefit from their works.

Figure 4.2 shows the listeners views on the significance of copyright law to music composer

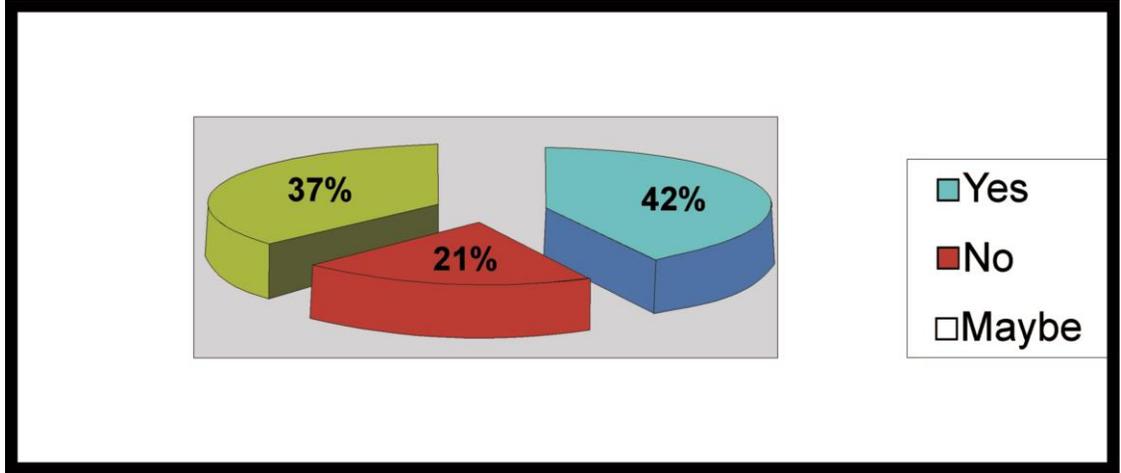


Figure 4.2: Significance of Copyright Law to music composers

A total of ten listeners' (42%) is of the view that copyright law is of significance to music

composers. Five of them (21%) think the law is not important in protecting music composers' works while nine (37%) are not sure if they know the significance of the law. The response rate shows that most music listeners' appreciate the role of copyright law in protecting music composers' intellectual property so that they benefit from their works.

Figure 4.3 shows music listeners' response on whether composers benefit from copyright law

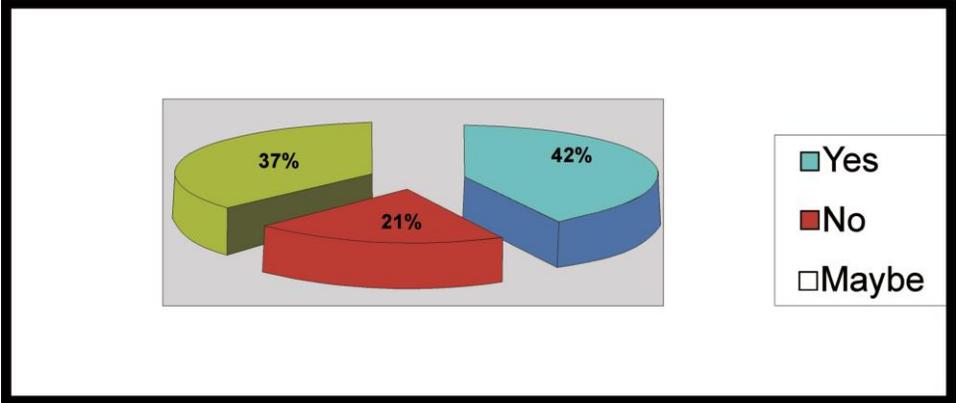


Figure 4.3: Are music composers benefiting from copyright law?

A majority of the respondents (42%) thinks that composers are benefiting from the copyright law. 37% are against the notion of composers benefiting from the same law while 21% are not sure whether the composers are benefiting or not. The results indicates that the respondents have different views on the question asked and therefore the researcher got different opinions regarding benefits of copyright law in protecting composers' intellectual property.

Figure 4.4 shows listeners' input on whether piracy has robbed music composers' work

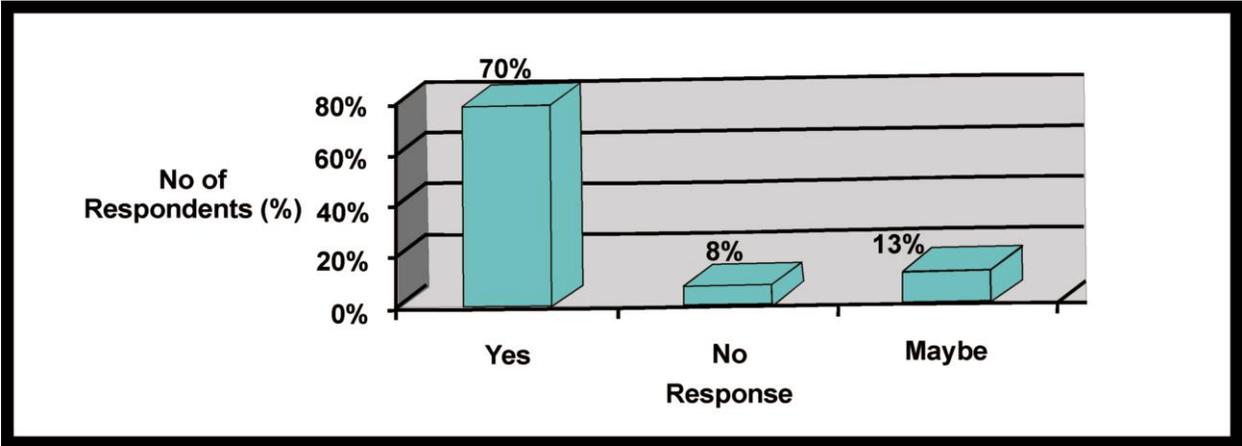


Figure 4.4: How piracy has robbed music composers' works

The question asked has a huge impact on the music composers. This can be seen by the

responses that were given by the respondents. A great number of listeners agree that it is piracy which has robbed musicians their rights as creators of intellectual property. 79 % of the responses said piracy has robbed the music composers' works, 8% have a different view on the issue of piracy as they state that it has not robbed these compeers' intellectual property rights, 13% are not sure whether to conclude if piracy has affected the musicals or not.

Figure 4.5 shows what music listeners say about how music composers' benefit when they register with ZIMURA

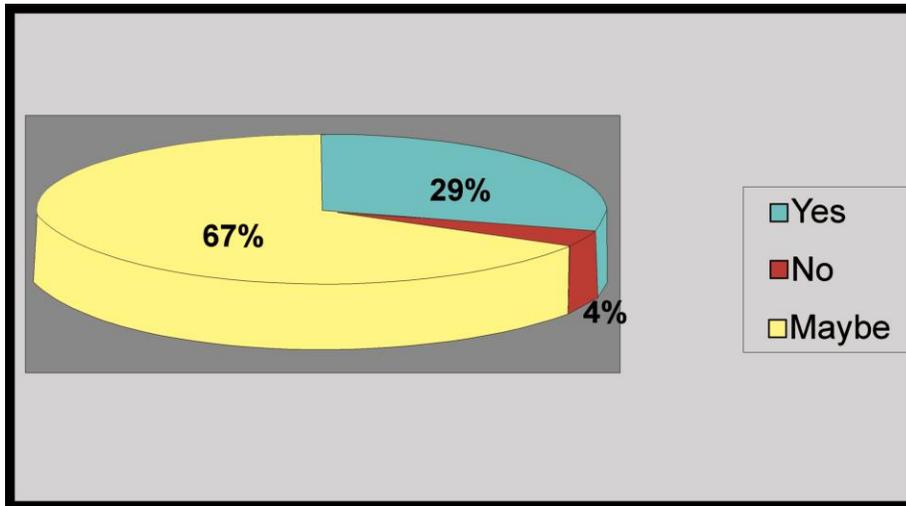


Figure 4.5: Music composers' benefit from registering with ZIMURA

When asked if ZIMURA has a role to play in helping music composer's gain from being a member, a vast number of people 67% said they are not sure if being a member helps the composers benefit from their works. 29% however agree that composers benefit from being ZIMURA members while 4% say being a ZIMURA does not benefit the music composers. From the findings on this question, it can be conclude that most listeners do not know about ZIMURA it functions in regard to helping music composers' benefit from the works of their minds.

Figure 4.6 shows to what extent listeners are abiding to the copyright law

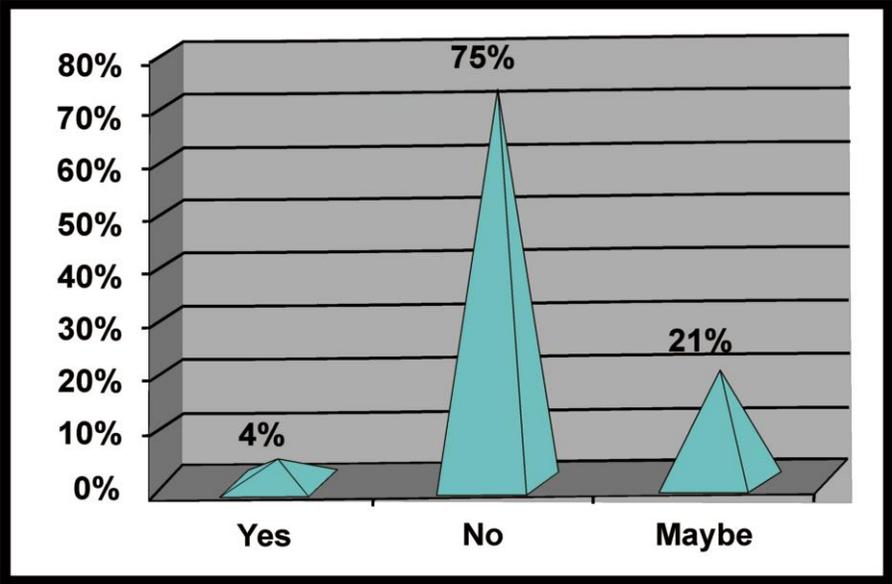


Figure 4.6: Are music listeners abiding to the copyright law?

75% of the respondents highlighted that the society is not abiding to the copyright law. 21% are not certain on whether they are complying with copyright law or disobeying it. Only 4% say listeners' are abiding with the copyright law. It therefore shows that a lot has to be done so as to make sure that listeners abide with copyright law so that music composers benefit from it.

Figure 4.7 shows listeners' acknowledgement to organizations' part in helping to protect music composers' works

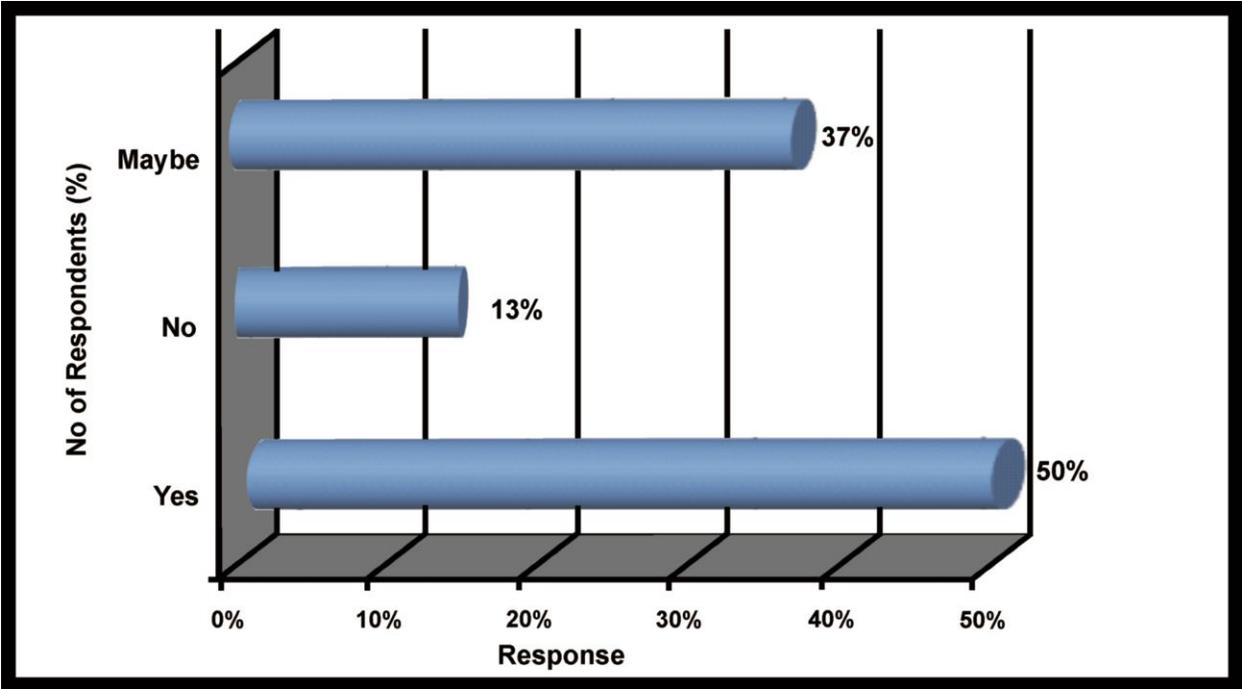


Figure 4.7: What part does ZIMURA play in helping music composers protect their works? Half of the responses say that the organization has helped music composers protect their intellectual property. 37% are not decided to know if the organization is of significance to the composers and 13% are against the view that music composers get help from the organization regarding protecting their works.

+

SECTION B: DATA FOR MUSIC COMPOSERS

Table 4.4 shows the number of questions asked, number of questionnaires distributed and number of respondents

NO .OF QUESTIONS ASKED	FREQUENCY	NO.OF DISTRIBUTED QUESTIONNAIRES	RESPONSE PERCENTAGE
9	12	20	60%

The first question that was asked to the music composers was if they understand what the copyright law is all about. The responses show that the music composers are aware that the law protects their intellectual property. This is so because the composers should be alert in knowing what is happening to their works so that they benefit from them. All the responses about the knowledge of copyright law indicate that composers know their works because the copyright entitles them that the works are protected from being used by other people. All in all the composers are satisfied with what the law offers them, which is protection of their legal rights. The response rate on this question 100% as all composers’ share the same sentiments of the law being their source of protection from the creation of their works.

Figure 4.8 shows composers’ response to the significance of copyright law

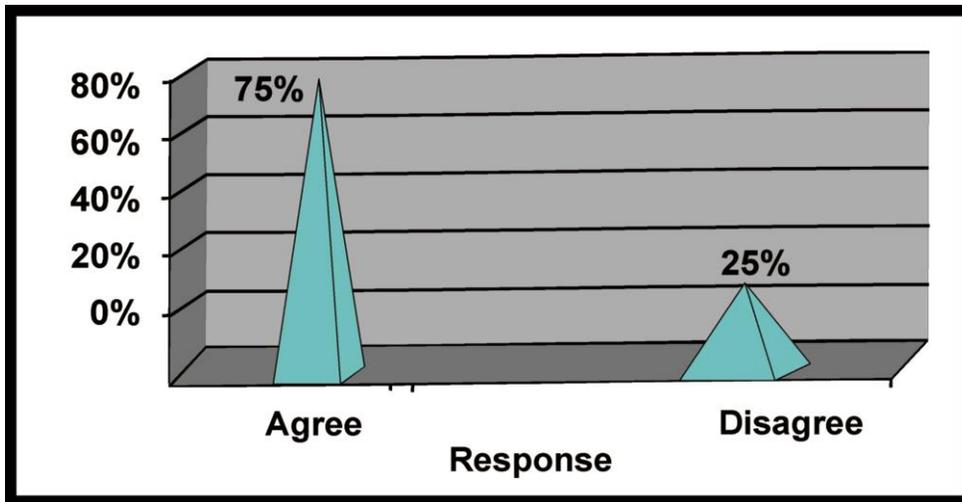


Figure 4.8: Significance of copyright law

Music composers were also asked to show the significance of copyright law to their musical creations. Of the 12 responses, 9 composers (75%) are of the view that the copyright law is important as it grants them the right to use their works in whatever they want. It also gives them the exclusive rights in protecting their works. Only 3 of the composers (25%) think that the copyright law is not at all significant in protecting their works. It therefore shows that the majority of the composers are pleased with the copyright law offers them so that they benefit from their intellectual property.

Table 4.6 shows if composers benefit from copyright law

Response	Frequency	Percentage
Yes	7	58%
No	5	42%

Another question that the composers responded to was to explain how they have benefited from copyright law. Basically seven (58%) of the music composers' responses were there the same. The composers said they benefited because their works were protected from the day they were created. The law also gives them the right to authorize the use of their works by any interested person. Five (42%) composers highlighted that they do not benefit from the copyright law because people are exploiting their works which will at the end make them loose the royalties they were supposed to get from the use of their works, thus they are not satisfied with copyright law.

The issue of piracy is one that most if not all of the music composers do not want to hear about. When asked if piracy has robbed their rights, all composers' responded that yes it does. From ten of the twelve responses, it can be deduced that piracy has robbed composers' benefit in a number of ways. Piracy reduces sales of their CDs, society is benefiting by downloading composers' works and the products lose its originality through piracy. Only two responses indicated that piracy does not does not rob music composers but it is a way of marketing their products. However, most of the composers think piracy has killed the music industry making them not benefit from their intellectual property.

Music composers also responded to the question about the importance of registering their works to ZIMURA. From the responses (100%) of the composers said the organization is significant to them as they get help in getting their royalties. Composers also benefit as they are given free legal advice and free education in their careers as music composers.

A question was also posed to the composers asking them what they think should be done to make sure people understand about copyright law. Composers are of the view that the responsible authorities which is ZIMURA should do advertisements, seminars, workshops so as to educate society on the need to understand about copyright law and its importance to music composers. Another composer suggested that schools should include teaching of copyright law in their curriculum so that students get to understand copyright at an early stage so as to avoid disobeying the law.

Composers also answered a question which required them to say out what ZIMURA has done in terms of protecting their intellectual property rights. Most of the composers indicated that mainly the organization has helped them collect royalties on their behalf. They also said ZIMURA helps in solving disputes when a composers' song is stolen by another. The organization has also managed to educate music users on the need to get a music license on their premises. Only two composers stated that the organization has done nothing to protect their rights though they did not indicate why they say so. It can be seen that composers are pleased with the help they get from the organization.

The researcher asked the composers what they would do if they were given the power to punish those people who are found guilty of infringing their copyright. Most composers clearly stated that they would get the criminals arrested and let them rot in jail because that is what they deserve. One composer even say that the copyright infringers have to be killed because by stealing a composers' work they are killing composers' life.

Lastly, the researcher asked the composers what they think should be done to make sure that their works are protected. From the responses the composers have the same view that of making sure police is fully involved in arresting those found guilty with infringing copyright. All loop-holes should be closed so that criminals will not escape without being charged.

Section C:

The following are the findings from the interviews conducted by the researcher.

The interviewees were the ZIMURA Chairperson and Director and also an Official from the Zimbabwe Intellectual Property Organization (ZIPO). These authorities contributed a lot in the question under study. From the responses of these authorities, copyright is a term that is used to describe the legal framework in which music composers' intellectual property works are

protected.

Music piracy is also not acceptable as the interviews said because by pirating music, the pirates will be pocketing the money that was supposed to the music composers'. This will leave them with nothing at all as there will be no profits for them. The interviews basically echoes what the music composers say. From the interviews it is shown that music composers benefit from registering their works with ZIMURA because they receive royalties from in and outside the country. The composers also get free education on copyright law which makes them benefit from their intellectual property.

4.5 Conclusion

The chapter gave a presentation of the collected data, using graphs, charts and tables to present data vividly. Analysis and interpretation of the presented data was highlighted in the chapter, quantitatively for closed ended questionnaires, and qualitatively for data gathered by interviews and other open ended questionnaires. The research findings aimed at answering the research questions of the study.

CHAPTER 5

5.0 SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter highlights the research results presented in the preceding chapter through discussing these research results and other issues raised by the study. In accomplishing this goal, parallels are drawn between the results of this study and what literature says about the Zimbabwean copyright law and its effectiveness in protecting music composers' intellectual property. This chapter finally outlines the conclusions and recommendations that can be made so that music composers benefit from their intellectual property through the help of the copyright law.

5.2 Summary of results

Findings from the research showed that most of composers clearly understand what exactly the copyright law is. From the composers asked, all of them (100%) agreed that copyright law protects their rights as an original creator of musical works. It therefore means that composers are benefiting from the protection copyright law offers them. Composers are in control of their works because they are entitled to allow or refuse access of their works to be used by any other interested persons other than themselves.

As can be seen from the findings, both music listeners' and composers think piracy has a negative impact when it comes to composers benefiting from copyright law. Piracy has eroded the music industry and it is regarded as an unethical act. Sheena (2004:135) agrees with this view and she says that it is illegal to download music or make reproduction of a composers work without making an agreement to do so. It is unfair on the part of the composer because he/she would have sweated to get his music recorded and published.

Composers' also highlighted that people are interfering with their intellectual property thereby making them losing all they have worked for. ZIMURA Chairman is of the same view of pirates' unscrupulous act saying that it is the pirates who are pocketing money which is supposed to be benefiting music composers for they are the ones who are credited to gain from the creation of their works.

From the data gathered, most composers said that given the chance, they would make sure that copyright infringers are given a heavy penalty as they would have violated their (music composers) intellectual property

From the data gathered, most composers said that given the chance, they would make sure that

copyright infringers are given a heavy penalty as they would have violated their (music composers) intellectual property rights. In addition to this view is Katers (2000:82) who states that, “Artists who pursue legal action against infringers may be able to recoup legal fees as well as damages if courts find it in their favor.”

However, a few composers from the sample see no problem with piracy as they view piracy as a way of marketing their music. It is also not easy to monitor pirates not to download music from computer because there is not yet software designed to do that.

5.3 Conclusions of findings

The data gathered from conducting the research sums up the Zimbabwean copyright law and its effectiveness in protecting music composers’ intellectual property rights. Most composers gave their views on the issue of copyright and this helped the researcher to come up with conclusions on what should be done so as to improve the composers’ benefits with the help of copyright law. From the preceding chapters, the following is what the researcher came to conclude about Zimbabwean copyright law and its effectiveness in protecting music composers’ intellectual property.

The Zimbabwe Music Rights Association (ZIMURA) has contributed to the music composers from benefiting from the copyright law. This is indicated by the findings which show that 100% of the composers asked agreed that they benefit from the registration of their works to the organization. The organization also created a website with the aim of communicating easily with composer members. This has benefited the music composers because they lessen the burden of going to the offices to seek for assistance on issues pertaining to the copyright law. It is however a disadvantage to the less privileged composers who do not have access to the internet facilities. The organization has also managed to hold copyright workshops together with the Zimbabwe Intellectual Property Organization (ZIPO) so as to do its best in educating music composers and the society at large on the importance of knowing about the copyright law. The workshops were held in Mutare, Harare and Bulawayo and more are going to be conducted around the country as stated by ZIMURA Director in an interview with researcher.

From the findings gathered it can also be concluded that piracy is a key issue in music composers not benefiting from their intellectual property. All of the composers (100%) who responded to the questionnaire say piracy has robbed their right as owners of intellectual property and this has resulted in making losses in the creation of their works. Piracy issues need

to be given much attention by the music industry, the government and society so as to let music composers benefit from the creation of their works.

From the findings and literature review gathered by the researcher, it seen that not all of the music composers know the importance of copyright law their intellectual property. A few of the music composers need education on the copyright law so that they really understand the benefit of registering their works to the responsible organization. A number of music composers have not registered their intellectual property to ZIMURA and hence they do realize what they are losing from not being members especially on issues pertaining to the protection of their works and the copyright law.

5.4 Recommendations

In seeking solutions to the research problem, the researcher made the following recommendations:

As there is ignorance by the society on the importance of abiding to the copyright law, the researcher recommends that more workshops should be held on a regular basis. The workshops should be held all over the country. The workshops should not only be conducted in big towns only like one interviewee mentioned because music composers are found everywhere in the country including in small towns. This has to be done so as to make sure the society and the music composers are deeply educated on the importance of copyright law in protecting music composers' intellectual property.

Music composers should be encouraged to register their works to the Zimbabwe Music Rights Association so that they fully enjoy the benefits of being music composers. Only registered musicians receive royalties because they are the only ones who are recognized in the WIPOCOS System which the organization uses to detect who gets paid. The researcher therefore recommends that ZIMURA engage in advertising through the various media so that these composers get to know the role the organization in their music careers.

Another recommendation by the researcher is that copyright law should be introduced in the secondary schools curriculum so that students will get to know about copyright law at an early stage. This will help in decreasing the number of people who are aware of the importance of the copyright law.

Information technology experts in Zimbabwe should try and come with software which does not

allow the illegal downloading of music online. By so doing music composers will be assured that they will benefit from copyright law as the pirates will no longer infringing their intellectual property.

The researcher also recommends that there should be formation of a composers society which only deals with taking care of music composers' intellectual property rights other than having ZIMURA to deal with copyright issues as well as collect composers' royalties. For example in the ZIMURA Package, there is a list of countries and their collecting societies. Also included in the list is Australian and the country has a society mainly focusing on composers' rights, Australian Mechanical Copyright Society (AMCOPS) as well as Australian Performing Rights Association (APRA) which is responsible for collecting income.

5.4 Conclusion

To conclude, this chapter mainly summed up the results of the research in relation to what other scholars said and researched about the problem and it offered discussion of the various findings. The research findings were concluded and recommendations were also made. It is hoped that the knowledge generated by the study through the research findings and the discussions will be an eye opener to everyone involved in the music industry to understand the Zimbabwean copyright law and its effectiveness in protecting the music composers' intellectual property.

1. References

- Bell, J. (2005). *Doing Your Research Project: A Guide for First Time Researchers*. Berkshire: Open University Press
- Borg, J. and Gall (1993). *Educational Research*. New York: Longman Press.
- Budd, R. (1999). *The Music Industry and Piracy*. Chicago: Handy Print.
- Denscombe, M. (2007). *The Good Research Guide: For Small Scale Social Research Projects*. Maiden Head: Open University Press.
- Dhodyal, S. P. (2007). *Research and Thesis Writing*. London: Shivani Press.
- Franks, H. (2006). *Piracy in Music*. Oxford: Oxford University Press.
- Frith, S. (1993). *Music and Copyright*. Edinburg: Edinburg University Press.
- Eyre, B. (2001). *Playing with Fire: Fear and Self-censorship in Zimbabwe*. Denmark: Handy
- Feltoe, G. (2002). *A Guide to Media Law in Zimbabwe*. Harare: Legal Foundation.
- Fowler, D. (1984). *Know Your Research*. Cambridge: Cambridge University Press.
- Gilbert, N. (2001). *Researching Social Life*. London: Sage Publications.
- Goldman, K. (1997). *Understanding Copyright Law*. Berkshire: Longman Press.
- Hart, T. (2007). *Who Benefits from Copyright?* Cambridge: University Press.
- Heins, M. (2002). *The Progress of Science and Useful Arts: Why Copyright Today threatens Intellectual Freedom*. London: Penguin Books.
- Katers, N. (2002). *Music Copyright Law*. Oxford: Oxford University Press.
- Kumar, A. (2003). *Research Methodology: A Step by Step Guide for Beginners*. Sage Publications
- Leedy, P. and Ormrod, J. (2009). *Practical Research, Planning and Design*. Clevebank: Pearson
- Marc, P.R. Tower, M. and Wyatt, L.S. (1999). *Choral Connections*. McGraw Hill: Glencoe.
- Mariwo, T. (2004). *Know Your Copyright*. Harare: Zimcopy.
- Mhiripiri, J. T. and Mhiripiri, N. (2006). "Zimbabwe's Popular Music Industry and Copyright Legislation." *Muziki Journal of Music Research in Africa*, no 3:1, pp 79-96.
- Oliver, P. (2004). *Writing Your Thesis*. London: Sage Publication.

- Passman, D. S. (1991). *All You Need to Know About Music Business*. London: Penguin Books.
- Petersen, L. (1993). *Intellectual Property, Trade Marks and Copyright*. Edinburg. Edinburg University Press.
- Raulin, M. (2000). *Research Methods*. Allyn and Baca Press: Boston.
- Sanchez, J. (2007). *The Copyright Law and Musicians*. London: Virgin Books.
- Sarantakos, P. (2005). *Research Methods*. New Jersey: Transaction Publisher.
- Shaw, J. G. (2007). *The South African Music Business*. Johannesburg: Ada enup cc
- Sheena, B. (2004). *Music Piracy: Is Downloading Music Illegal?* Stratford: Koch Publishers.
- Taylor, M. (2005). *Managing Music*. London: Penguin Books.
- Tower, M., Marc, E., Philips, r. and Wyatt, L. (1999). *Choral Connections*. McGraw: Glencoe.
- Vollweir, D. (2009). *Help Stop Piracy*. McGraw Hill: Glencoe Books.
- Williams, R. (2001). *Indepth Explanation of Music Piracy*. New York: Sage Publication.

APPENDIX 1

INTERVIEW GUIDE

My name is Jane V. Banda. I am a fourth year student studying a Bachelor's Degree in Music and Musicology at the Midlands State University. Currently I am working on my research project entitled, "Zimbabwean Copyright Law and its effectiveness in protecting composer's Intellectual Property". I am kindly asking for your co-operation by answering the interview questions. Please feel free to say out what you think and your honesty contributions will be greatly appreciated. Be assured that the information you will give will only be used for education purposes and no name will be disclosed. Thank you for the assistance.

1. What is Copyright Law?
2. How has it been implemented in Zimbabwe?
3. Do you think music composers are benefiting from the Copyright Law?
4. What has your organization done to make sure that composers are benefiting from the Copyright Law?
5. I understand that piracy is one of the factors that has messed the music industry in Zimbabwe. What is piracy and how has it robbed musicians their rights as composers?
6. Has your organization done anything to educate composers on the importance of Copyright Law?
7. Do you think music composers are satisfied with the help they are getting from your organization?
8. Have you ever faced problems of people infringing the Copyright Law?

APPENDIX 2

QUESTIONNAIRES TO MUSIC LISTENERS AND PRODUCERS

My name is Jane Banda. I am in my final year at the Midlands State University and currently working on my project entitled, “Zimbabwean Copyright Law and its effectiveness in protecting composer’s Intellectual Property”. I am kindly asking for your co-operation by filling in the questionnaire. Be assured that the information you will give will only be used for education purposes and no name will be disclosed.

NB: Please put a tick in the appropriate box

1. Do you understand what meant by the Copyright Law?
Yes No
Maybe
2. The Copyright Law is of significance to music composers in Zimbabwe.
Yes No
Maybe
3. Music composers are benefiting from the Copyright Law.
Yes No
Maybe
4. Has piracy robbed composers their Copyright?
Yes No
Maybe
5. Do composer benefit by registering their works with the Zimbabwe Music Rights Association?
Yes No
Maybe
6. Do you think people are abiding by the Copyright Law
Yes No
Maybe

7. Is the responsible organization i.e. Zimbabwe Music Rights Association, National Arts Council of Zimbabwe (NACZ) doing what's best to protect composers works?

Yes

No

Maybe

APPENDIX 3

QUESTIONNAIRES TO MUSIC COMPOSERS

My name is Jane Banda. I am in my final year at the Midlands State University and currently working on my project entitled, “Zimbabwean Copyright Law and its effectiveness in protecting composer’s Intellectual Property”. I am kindly asking for your co-operation by filling in the questionnaire. Be assured that the information you will give will only be used for education purposes and no name will be disclosed.

1. What do you understand by the term Copy Law.....
.....
.....
2. How is the Copyright Law significant to music composers in Zimbabwe.....
.....
.....
3. How have you as a composer benefited from the Copyright Law.....
.....
.....
4. What is piracy and how has it robbed your rights as a music composer.....
.....
.....
5. Explain the importance of registering your works with ZIMURA.....
.....
.....
6. What do you think should be done to make people understand what copyright means to you
.....
.....
7. What has he Zimbabwe Music Rights Association done in protecting your musical works?.....
.....

RELEASE FORM

NAME OF STUDENT: JANE BANDA
DISSERTATION TITLE: Zimbabwe Copyright Law and its effectiveness in protecting composers Intellectual Property Rights.
DEGREE TITLE: Bachelor of Sciences Honors Degree in Music and Musicology

Permission is hereby granted to the Midlands State University Library to produce single Copies of this dissertation and to lend or lend or sell such copies for private, scholarly scientific research purpose only. The author does not reserve other publication rights and the dissertation nor may extensive extracts from it be printed or otherwise reproduced without the authors' written permission.

SIGNED:

CONTACT NUMBER: 0777279745
PERMANENT ADDRESS: 6 Gardenia Crescent
Msasa Park
Harare

DATE: MAY 2012