

EMO EXPORT HANDBOOK

SPAIN



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This project is supported by the European Union



Education and Culture

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I. GENERAL INFORMATION ON SPAIN

1. Geography, Demographics, Economy, New Technologies & Leisure

Spain is situated in the southern region of the European Union, sharing borders with France and Portugal. Its 505.990 km² make up the most sizeable part of the Iberian Peninsula. It is a constitutional monarchy made up of 17 autonomous regions and two autonomous cities (Ceuta and Melilla), and its territories include the Balearic and Canary Islands.

Spain's Head of State is King Juan Carlos I (since 1975), along with the Head of Government, José Luis Rodríguez Zapatero, who came to power in April 2004.

1.1 Demographics and Administrative Divisions¹

Spain has 43,198 million (m) inhabitants. With 81,1 inhabitants per km² it is one of the least densely populated countries in Western Europe. A large portion, 75%, of its population is located in urban areas.

In addition to this, 25% of Spain's population resides in two centres: Madrid (with 5.804.829 inhabitants) and Barcelona (5.117.885 inhabitants), the country's leading industrial province. Other cities in Spain that have over 1 million inhabitants are: Valencia (an industrial and railway-based economic city with 2.358.919 inhabitants; Seville (cultural centre and important river port with 1.792.420 inhabitants; Alicante (with 1.657.040 inhabitants); Malaga (with 1.397.925 inhabitants); Bilbao (with 1.132.861 inhabitants); Cadiz (with 1.164.268 inhabitants); A Coruña (with 1.121.344 inhabitants).

Over the past few years, immigration into Spain has increased quite spectacularly, well over the European average, and continues to increase due to new immigration legislation.

The four most populated regions in 2004 were Andalusia (7.687.518 inhabitants), Catalonia (6.813.319 inhabitants), Madrid (5.804.829 inhabitants) and Valencia (4.543.304 inhabitants). Inland Spain is characterised by low demographics.

Spain is divided into 50 provinces, grouped together into 17 autonomous regions: Andalusia, Aragon, Asturias, Balearic Islands, the Basque country, Canary Islands, Cantabria, Castile La Mancha, Castile Leon, Catalonia, Extremadura, Galicia, La Rioja, Madrid, Murcia, Navarre, Valencia and the two autonomous cities Ceuta and Melilla. Between its autonomous regions, Spain is characterised by a significant territorial imbalance.

¹ Anuario El País, 2005

At the level of the music sector, this territorial imbalance can be clearly seen by the fact that, according to Hugo Hernandez of record label Naïve, two-thirds of all record sales take place either in Madrid or Barcelona.

Furthermore, the most important musical facilities are either in Madrid or Barcelona; cities which have been part of the international tour circuits of the world's best-known artists for some years now. The same can be said of concert agencies, professional and trade union associations and record labels; fields in which the dominance of Catalonia and Madrid are clearly evident.

According to the figures of PROMUSICAE (Spain's phonographic and video association), 52% (36 out of 68) of the companies it represents are based in Madrid, 30% (20 out of 68) are from Barcelona and the remaining 17% are from across the country, particularly from Seville (6%). There were 180 companies represented in 2000, a good indicator that the process of mergers and the concentration of the music industry in the hands of a few very large companies has also affected the Spanish music industry.

Nevertheless, the member companies of this association, although concentrating 93% of sales in Spain between them, are not all that representative; amongst them four major companies and a dozen or so independent labels.² This tendency of the Spanish musical industry to be geographically concentrated is even more worrying, as, according to the Barcelona Cultural Institute, the major Catalan companies are moving to Madrid. But independent companies remain, for the moment, in the Catalan capital.

However, concentration of consumerism in Spain does not mean that there is a corresponding concentration of authorities or of policies. Each autonomous region implements specific policies via its own authorities.

Hence, in order to find out the level of each city or region's involvement in culture and music, it is impossible to address one single national institution. Each autonomous region must be contacted individually.

1.2 Economy

The most economically advanced regions are in the Bay of Biscay on the Atlantic coast and the Catalan speaking regions (Catalonia and the region of Valencia). The central, western and southern regions are economically weaker, due to their agriculturally-based economies.

When it comes to unemployment, the situation in Spain is decidedly more positive: over the past 5 years unemployment has been steadily falling with figures in 2004 half those of 1996. Nearly 11% (10,8%) of the active population (some 18,8m) is unemployed, which is to say 1.670.290 people. Unfortunately for those in employment, Spain has a very high rate of job insecurity (13%) with short-term contracts being the norm.

² Music & Copyright, 27 April 2005

Spain's economy is growing at a rate of 2,6% with an increase in household spending of 3,4%. These figures are not as positive as was predicted a few years ago.

Spain's per capita purchasing power is well under that of other European Union countries: \$22.403 (compared to \$26.345 per capita in France and \$26.751 per capita in Italy). Spending per capita on music in Spain remains one of the lowest levels in Western Europe with an all time low of €10,50 in 2004.³

Nevertheless, the Spanish purchasing power has been steadily growing for several years with generally falling inflation (3% in 2003).⁴

1.3 New Technologies

The rate at which new technology in the 21st century is advancing is unprecedented. This high-speed revolution is largely due to what are generally known as the "new technologies". This is extremely evident in the music industry, with Spain being no exception.

Mobile phones (GSM and 3G), MP3, Internet, DVDs and home cinemas are rapidly becoming commonplace although Spain remains somewhat backward when compared with many other European countries (Spain ranks just 20th in Europe in Internet connections behind several of the Union's newest members such as Slovenia, the Czech Republic and Estonia).⁵

It is interesting to note that Spaniards have a far greater capacity to take onboard new technologies when related to leisure and communication than Spanish companies have for improving their work practices.

Use of Internet in Spain is on the increase, and has been since the mid-1990s. In March 2005, 33,6% of the population had access to Internet.⁶ Everyday, around 7 million Spaniards are connected to the Web. Once again, when looking at the differences between the regions, a considerable difference can be noted between the figures for Madrid (44,4% of the population) and those for Extremadura (with only 20,1% connected).

Although there is no longer a monopoly in Spain and competition between operators is keen, Telefónica remains Spain's dominant telecommunications company with 68% of internet access (broadband is only possible via a telephone line, almost always provided by Telefónica). Cable is slowly making its mark but remains a minority (600.000 via the cable compared with 2.770.000 via broadband). The poor quality of telephone lines in Spain has meant that the speed of broadband access has also been significantly lower than that of other European countries (2Megas at the top range and much only running at 512K).

³ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

⁴ El Anuario del País

⁵ Internet World Statistics, 2004 & 2005

⁶ EGM

When questioned on their use of personal computers, 31,3% of the population use them during their spare time, a figure that doubles for those under 19 years of age (66,9%) and rises to 73,5% for those with university degrees.⁷

A Spanish surfer profile is summed up as the following: PC user, surfs via the Web and has a clear preference for email, chats and music downloads (66,4% of files downloaded in 2005 were music files).⁸ The latter are on the increase in a quite spectacular, but unfortunately illicit, fashion. The 180 million music files downloaded in 2003 rose to 270 million in 2004, almost all of which were illegal.⁹ This is perhaps the most damaging down-side of the technological revolution brought on by Internet for the music industry.

But not all aspects of this revolution negatively impact the music industry. Sales of musical videos and DVDs in 2004 rose by 122%, a figure similar to those registered on the world music market, and a positive consequence of the modern business model that new technologies are imposing on the musical industry.¹⁰

The implantation of the mobile phone is also significant when considering Spanish society's assimilation of new technologies: 74,2% of all Spaniards own one or more mobile phones (94,4% of those are under 35 years of age and 88,3% of 35-40 year olds).¹¹ Here again, Telefónica holds a majority share (56,98%) of the market with Vodafone and Amena in second and third places, respectively. The mobile phone has become a new, high-potential support for music. During 2003, a monthly average of 3 million ring tones and melodies were downloaded by the three mobile telephone operators. The digital networks income from the Sociedad General de Autores y Editores (SGAE) rose 10,4% in 2004, an increase largely attributed to ring tones.¹²

Once again, Spain is somewhat lagging behind other European countries in the type of mobile phones used. Third generation phones (3G) were only just being introduced in 2005, with operators aiming at 2006 as the growth year. This would be the norm once consumer opinion has been won over, according to Luis Ezcurra, Director of Development and Marketing at Telefónica Movies.¹³

MP3 players such as the iPod are also making their entrance onto the Spanish new technologies stage. Playing music bought from the iTunes Music Store, the iPod is an "ultra-portable computer specialised in digital music" (Juan Antonio Castellanos, Director of Apple Spain).¹⁴ The iPod has taken off in an almost unprecedented fashion (in the first quarter of 2005 Apple sold 5,3 million iPods worldwide, compared to 1,1 million Mac computers). i-Tunes was launched in April 2003 and clearly represents one of the most promising projects for legal online digital music for the future.

⁷ Encuesta de hábitos y practicas culturales en España (SGAE)

⁸ Ya.com: downloads and sales of programmes, archives, music and videos, January 2005

⁹ Escenarios, el mundo del espectáculo

¹⁰ La Vanguardia, 26 March 2005

¹¹ EGM February-March 2005

¹² Informe de Gestión de la SGAE 2004

¹³ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

¹⁴ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

With consumer styles changing, the Spanish music industry is only too aware of the pressing need to not only keep up-to-date with modern ways of listening to music, but to offer exciting and legal innovations for doing so. The Unión Fonográfica Independiente (UFI-Independent Phonographic Union) clearly declares: “We are not only open to new technologies but are actively collaborating in their development and implantation. We believe that our records will gain visibility and presence. We believe in striving to reach the huge minority.”

Nevertheless, there remain many legal and technical uncertainties to be resolved; not to mention heavy competition within the entertainment sector, a growing illicit market and little respect for copyright.

But once these hurdles have been overcome by the music industry, it will benefit from a series of opportunities for the future: new sources of income from original products and services; a wider market with greater possibilities for exporting music; a greater potential for music via the Internet; and better knowledge of consumers, providing possibilities for innovation.¹⁵

1.4 Leisure and Music Consumerism

According to the SGAE’s report on cultural consumerism in Spain following a survey carried out in 2002-2003, 38,9% of the Spaniards listen to music every day (there were just 19,4% in 1991 and 31,1% in 2000).¹⁶

In as far as their buying of records is concerned, 50,2% had bought a CD within the last year (and 0,9% declared never or almost never buying records).

The supremacy of pop-rock over other styles of music remains very clear: 60,7% of those interviewed had purchased Spanish pop-rock, 45,8% Latino pop-rock and 33,8% international pop-rock.

Pop-rock also remains dominant in the number of concerts programmed in 2004, with 33,6% of the nation’s live music events. Flamenco concerts globally represent 13,9% of concerts, with a clear divide existing between the north and south of the country. Flamenco is the dominant live music form in the southern communities of Andalusia, Castile La Mancha and Extremadura, and a close runner-up to pop-rock in Madrid and Catalonia.

As far as general attendance of concerts is concerned, all figures show that it is on the increase in Spain. Global receipts for 2003 rose by 9,8% compared to the previous year. The number of spectators came to just over 21,7 million at 114.428 concerts in 2004 with 24,9% of the population attending a live music event at least once a year (an increase of 5% on 1998’s figures). In 2005, 10,6% of people declared having attended a concert, with 14% between the last 3-12 months and 7,4% a year or more ago.¹⁷

¹⁵ Libro Blanco de la Música, Promusicae

¹⁶ Encuesta de hábitos y prácticas culturales en España (SGAE)

¹⁷ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

The SGAE survey also reveals a significant gap between the numbers attending pop music concerts and classical concerts: almost one-third of the population has been to a pop music concert with 16,8% attending twice a year or more; classical music comes off rather worse with only 13,3% of Spaniards having ever gone to a classical music concert and just 5,5% going more than twice a year.¹⁸

Compared to a few years ago, the number of paying spectators is ever-increasing with free concerts, although still numerous, on the decline. In 2004, 19,4% of spectators went to concerts solely financed by ticket sales compared to 15,2% in 2002, with an average ticket price of €16,18 compared to €12,70 in 2002. Average per capita spending on concerts had risen to €2,99 in 2004 compared to €1,65 in 1999.

Completely subsidised concerts, which are less common due to a post-electoral slump, still attracted 46,2% of spectators in 2004. Hence the low interest of the Spanish public for concerts of unknown groups, especially if they have to pay to get in.¹⁹

The most important form of musical consumerism is through the media, especially radio and television, and it is growing. In 2004, radio listeners rose to 20,684 million, slightly higher than the numbers for 2003²⁰ with radios broadcasting a total of 45.818 songs.²¹

The buying of records is more limited, however, particularly when comparing Spanish figures to the three big European consumers (Germany, France and the United Kingdom), despite record prices being much lower in Spain than in the rest of Western Europe (in Spain the average cost of a CD lies between €15,90 and €14,10).²² The record remains an expensive product compared to incomes and the Spanish spending power. Of those interviewed for the SGAE report on cultural practices in 2003, 49,5% said that the main reason they did not buy more records was that the CD was too expensive.²³

2. Working Habits

When working with the Spanish, it is good to familiarise yourself with their work ethic compared to the rest of the world.

Customs and organisation at work, although improving, are still relatively unprofessional, with little planning and a great deal of improvisation. This creates the need for haste, a good example being festival programmers whose efforts are concentrated into the last months of spring for the summer festivities. In Spain, everything happens at the last minute.

¹⁸ Encuesta de hábitos y prácticas culturales en España 2003 (SGAE)

¹⁹ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

²⁰ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

²¹ Escenarios, el mundo del espectáculo

²² Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

²³ Encuesta de hábitos y prácticas culturales en España (SGAE)

Nevertheless, it must be said that Spanish working hours are longer than those of the rest of Europe and their capacity for improvisation is admired.

Spanish working hours in the musical industry are the following: 10.00 - 14.00; 16.00 - 20.00.

3. The Culture of Leisure & Music

Spain is a country with a rich and vast culture. Historically and geographically, this is a place through which numerous civilisations have passed, making it into a source of diverse culture.

An important part of culture in Spain takes place in the street. People sing and dance in the street and bars are social hot spots. The climate makes this especially possible. While outdoor cultural activities are numerous and diverse, certain pastimes are less popular with the Spanish than elsewhere (i.e. reading, museum attendance and musical studies). On the other hand, it is one of the leading countries in Europe in the bar-per-person ratio charts.

Cultural activities take place in the street, from the most sacred (the *saetas* (chants) and drumming during the Holy Week) to the most profane (the dragons and devils accompanied by the music of the *gralla* (instruments) in Catalonia). Each region has its own dances, songs and even instruments.

The channelling and promotion of this culture is the role of the administrations. The exploitation of this wealth abroad and the role of the private sector is developing.

4. Cultural Policy

Spain's national history implies that cultural politics is very recent, dating to the beginning of the 1980s with the arrival of democracy. This backwardness has instilled the will to make up for lost time, while managing the various cultural structures day by day.

In Barcelona, it took only two decades to build their cultural infrastructures, which concerned pro-art policies and cultural planning as a whole. This was largely due to a global transformation process of the city versus any in-depth study of real cultural needs. Just to give you an idea, this is the equivalent of what took place in Paris over a period of 150 years!

In Madrid, since the time of Socialist Mayor Tierno Galbán who instilled the *movida madrileña*, the city has been under right-wing rule with corresponding divergences in cultural policies.

This 'over-rapid' evolution explains the weakness of public authorities in the field of culture, as well as poorly defined roles for the various cultural bodies. The lack of medium-term and long-term policies within most institutions has incited successive politicians to use culture to their personal ends, concentrating more on large-scale popular events than on in-depth cultural policies.

Since the change of government to a socialist government led by José Luis Zapatero in April 2004, political interest for culture in general and for music in particular has increased considerably. But as underlined by UFI (the Independent Phonographic Union), “Frequently the left-wing has difficulty in resisting the temptation of using [culture] for its own propaganda...Independent artists want to remain independent, but this industry is undergoing a dramatic process of restructuring and it wouldn’t be a bad thing if they started helping us”.

It is important to underline that almost none of the national, regional or local bodies have considered it important to develop training programmes for professions linked to music. This has meant that managers, agents, touring agents, record label directors and others learn their profession on the job. This has considerably delayed the professionalisation of this sector and has favoured illegal practices. Fundación Autor is the only body to have recently organised classes and seminars dedicated to training music sector professionals.

II. MUSIC FACTS AND FIGURES

1. The Spanish Music Market

1.1 Spanish Music on the Global Market

The music industry is undergoing one of its most critical and challenging moments: a total restructuring of its traditional distribution models faced with new technologies and the damaging effects of illegal digital piracy. Not all zones of the world share the same experience within this rapidly changing sector. Certain countries like the US, the UK, China, and certain new members of the European Union have positive figures for CD sales. However, Germany, Japan, Spain, France and Sweden have all suffered drastic reductions in sales, and the markets in countries of Latin America are unstable.

Spain represents 1,7% of the world music market, ranking 9th after the USA, Japan, the UK, Germany, France, Australia, Canada and Italy.

1.2 The National Market

The national market in Spain has been sorely hit by piracy with sales at an all-time low. The number of units sold in 2004 was down 12,5% from 2003 at 49,1m units representing a retail value of €463,9m.²⁴

The number of albums sold per person in 2004 was 1,1 (1,9 in 2000), representing €10,05 per annum, a decrease from the €16,60 spent four years previously.

²⁴ Music & Copyright, 27 April 2005

The Best-Selling Albums in 2004

National market					
	Artist	Album		Artist	Album
1	David Bisbal	Bulería (Vale Music)	11	Fran Perea	La chica de la habitación de al lado (Globomedia Musica-Dro)
2	Estopa	¿La calle es tuya? (Sony BMG)	12	Bebo & Cigala	Lagrimas Negras (Sony BMG)
3	M Isabel	No me toques las palmas que me... (Vale Music)	13	Marc Anthony	Amar sin mentiras (Sony BMG)
4	Los Lunnis	Los Lunnis nos vamos a la cama (Sony BMG-RTVE)	14	Bebe	Pafuera telerañas (Virgin)
5	Manolo García	Para que no se duermen mis sentidos (Sony BMG)	15	Alex Ubago	Fantasia o realidad (Dro)
6	Alejandro Sanz	Grandes éxitos 91-04 (Warner Music)	16	Los Lunnis	Vacaciones con los Lunnis (Sony BMG-RTVE)
7	Melendi	Sin noticias de Holanda (Carlito Records-El Diablo)	17	David DeMaría	Barcos de papel (Warner Music)
8	Anastacia	Anastacia (Sony BMG)	18	Camela	Diez de corazón (Capitol)
9	Andy & Lucas	Desde mi barrio (Sony BMG-Estrella Federal Rec))	19	3+2	Girando sin parar (Vale Music)
10	Andy & Lucas	Andy & Lucas (Sony BMG)	20	U2	How to dismantle an atomic bomb (Universal)

Source : Anuario SGAE 2005

1.3 Border Breakers

Among Spanish artists who have achieved the most success on the international scene in recent years is the group Las Ketchup whose single, *Asereje* was among the top listings of the singles charts in most European, Asian and Latin American countries. Another well-known Spanish artist based in the United States is Enrique Inglesias, whose album *Hero* appeared in the lists of most sold albums and singles in Ireland, Romania and Australia. In 2004, the success of Las Ketchup in Portugal and of artists like Alejandro Sanz in Argentina and Mexico continued, where Alex Ubago and La Oreja de Van Gogh also triumphed. The group, El Jarabe de Palo received an IFPI Platinum Award in that same year.

1.4 Music Genres

In 2004, the national repertory remained strong, with a market share of 52%; an increase of 6% compared to 2003.²⁵ Out of the 50 best-selling albums in 2004, only

²⁵ Memoria Anual SGAE 2004

five were non-Spanish speaking artists (Anastacia at n°8, U2 at n°20, Robbie Williams at n°33, Norah Jones at n°45 and The Black Eyed Peas at n°47).²⁶

Music & Copyright (A comprehensive newsletter covering the global music industry), estimated in 2003 that a majority of the sales of international pop were of Spanish speaking, largely Latin American artists.

Market shares according to style

	Market shares %		
	International	National	Classical Music
1996	55,78	36,4	7,82
1997	51,61	41,66	6,73
1998	50,87	42,09	7,04
1999	57,9	36	6,1
2000	48,65	45,73	5,62
2003	47	46	7
2004	48	46	6

Source: IFPI, *The Recording Industry in Numbers 2005*

Another indication of the growing popularity of the Spanish language repertory is the success of Cadena Dial, a national network of 78 radio stations that only play music sung in Spanish.

According to the SGAE report on cultural consumerism in Spain, 60,7% of those who bought records during the last year had bought Spanish pop-rock, with Latino pop-rock close behind at 45,8%.²⁷

Fusion artists from across the French-Spanish border such as Manu Chao and Sergent Garcia have succeeded in penetrating the relatively closed Spanish market, thanks to their multicultural heritage and tendency to sing in Spanish.

On the other hand, the dance floors, so essential to artist promotion, pulse to the sounds of a wide variety of international artists. Since the global success of Daft Punk, the French electronic scene is well known in Spain. Laurent Garnier is a household name for anyone interested in electronic music, thanks in part to the Sonar festival which has promoted this genre in Barcelona and the rest of the country. Electronic music from Germany is also familiar on Spain's dance floors (for example artists with the record label Compost), while the British Soulsavers and American Richie Hawtin regularly play to packed venues. However, the lack of local productions is still to be deplored.

As elsewhere in Europe, Anglo-Saxon pop-rock artists are highly successful in Spain. Bands such as Coldplay, U2 and Robbie Williams have no difficulty in filling sizeable venues for their gigs. But as mentioned above, only 5 out of the Top 50 best selling albums in 2004 were released by non-Spanish speaking artists.

²⁶ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

²⁷ Encuesta de hábitos y prácticas culturales en España 2003, SGAE

The Spanish market is one of Western Europe's rarities in that young people are those that continue to buy most of the records sold. Over 25% of regular buyers in 2003 were under 25 years of age, and just over 55% were under the age of 34.²⁸

1.5 Music Supports

The figures for recorded music sales clearly illustrate the crisis the Spanish and world music industries are currently confronted with.

In 2004, compared to the figures for the previous year, CD sales declined by 16,7% to 41,7m units, MC sales fell by two-thirds to 310.000 units and singles dropped by 64,8% to 1.2m units. Vinyl LP sales fell by 17,3% to 10.000 units and combined VHS and DVD video sales rose 122% to 3,5m units. Sales of other formats, above all the SACD (Super Audio CD), fell 25,3% to 132.000 units.²⁹

EVOLUTION (in millions)

Global Market								
	Units (m)						Value (\$m)	
	Singles	LP's	MC's	CD's	Total	Growth	Total	Growth
2002	265	8,6	478,9	2.247,1	2903		36900	
2003	232,5	7,3	427,2	2.043,2	2783	-4%	34107	-7,5%
2004	197,8	-	-	2.114,2	2756	-	33613	-1,5%

Source: Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

Spanish market								
	Units (m)						Value (€m)	
	Singles	LP's	MC's & others*	CD's	Total*	Growth	Total	Growth
2000	2,1	0,02	9,8	67,3	77,8		678,9	
2001	2,4	0,03	7,0	71,1	78,9	1,4%	685,1	0,9%
2002	2,2	0,01	2,4	61,7	65,3	-17%	589,2	-14%
2003	3,8	0,01	1,0	53,8	57,7	-11%	531,0	-9,8%
2004	1,6	0,01	0,4	44,6	49,1	-14%	461,7	-13%

*cassettes, minidisks and audio DVDs etc **includes musical DVDs
source: Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

Clearly all sales are down, except the new sales surge of DVD videos recorded since 2002 with a total of 3,5 million units sold in Spain in 2004, a spectacular increase of 122%. This is a trend that has been noted in all other countries with a tradition of high-recorded music sales.

The development of legal music downloading via services such as Terra Música, Vitaminic, Los40 or iTunes is still relatively recent. Awareness amongst typical young surfers is still lacking and the use of P2P (Peer-to-Peer) sites rife.

²⁸ Encuesta de hábitos y prácticas culturales en España 2003, SGAE

²⁹ Music&Copyright, 27 April 2005

1.6 Music Awards

The Music Awards were established in 1996 by the Sociedad General de Autores y Editores (SGAE) and Fundación Autor in collaboration with the Sociedad de Artistas Intérpretes o Ejecutantes de España (AIE) in recognition of the work of authors, composers and, in general, all professionals in the music arena. Since 2001, the Academia de las Artes y las Ciencias de la Musica, an arm of the SGAE group, has overseen their organisation.

With over eight editions, the Music Awards have garnered public recognition and diffusion of the creative enterprise of Spanish authors as well as of the capacity for initiative of the Spanish music industry.

On the other hand, PROMUSICAE has organised, since 1997, the Premios Amigo. The awards, in 16 categories aim to recognise the best performers and musical performances in each year.

2. Trade Organisations & Collecting Societies

2.1 SGAE (Sociedad General de Autores y Editores)

SGAE - the General Society of Authors and Editors - is a non-profit organisation that was founded in 1899. It has offices in every Spanish autonomous region as well as Madrid, Valencia, Barcelona, Seville, Granada, Zaragoza, Oviedo, Palma de Mallorca, Palmas de Gran Canarias, Toledo, Valladolid, Bilbao, La Coruña. It also has offices abroad in New York, Mexico, Havana (Cuba), Buenos Aires (Argentina), Tokyo (Japan), Shanghai and Brazil. It protects some 3 million musical, theatrical, choreographic, audio-visual, cinematographic and multimedia works by Spanish authors, which amounts to over 80.000 musical, audio-visual and dramatic arts creators. It defends the payment to these authors through rights to use their work (reproduction, distribution, public diffusion, transformation, private copying) and carries out the distribution of these rights. In 2004, SGAE collected €300,767m, and distributed €280,728m in authors' and publishers' rights (11,9% more than in 2003). One of its roles is also to promote its members' creations; the SGAE welcomed 4.398 new members in 2004, of which 505 were from abroad, mostly from Cuban and Argentinean.

The royalty rights collected by SGAE from those using its repertory are made up of:

- a) In Spain, public diffusion rights provide the most important source of income (€68.743m, 12% more than in 2003). The SGAE collected €39,995m (19,3% more than in 2003) from private television companies. The rights collected from commercial radio stations dropped by 2,7% to €82,307m.
- b) Rights on mechanical reproduction: record sales are the second most important source of income. These represent €41,2m (9% less than in 2003), private copying a little over €17m. Rights on mechanical reproduction, redistributed in 2004, have increased by 4,9% when compared to 2003, reaching €52m. The total volume of phonographic mediums for 2004 came to 70,7 million, an increase of 1,5% compared to figures for the previous year.

The royalty rights collected in 2004 by SGAE from foreign collecting societies show a decrease of 6,46% when compared to 2003, coming to a total of €22,428m, with 60,04% attributed to Public Diffusion and Radio broadcasting and 35,26% to Mechanical Reproduction. The reasons for this decrease are multiple; above all monetary exchange rates between countries (due to the revaluation of the Euro (€) against the US Dollar (\$) in 2004) and delays in receiving certain exports due to tax problems. The recent strength of the Euro, making the Spanish repertory and Spanish artists' tours prohibitively expensive, particularly for Latin American countries, has caused considerable damage to Spanish artists formerly well established in these markets.

The international market is managed via the Madrid-based Central Services and International Delegations. In 2004, the income of the Central Services came to a total of €14,5m, a decrease of 3,92% compared to 2003. This was largely due to a reduction in income from Europe (-5,42%) due to tax conflicts between Dutch, British and Baltic collecting societies with the Spanish. The decline of the music industry in many European countries also contributed to this. Nevertheless income from the other Central Services was on the increase, and in a spectacular fashion: Asia was up 29,7%, Oceania 38,8% and 43,7% for Africa.

The North American Delegation's income rose by 0,37% compared to 2003, representing 17,86% of all international delegations. South America's also rose by 13,5% to represent 7,51% of the total. Mexico registered a healthy increase in income of 20,75%, representing 8.83% of the total compared to 7,29% in 2003.

In 2004, a new communication service, AutorPress, was set up in order to provide young authors with a means of communication.

2.2 SDAE (Sociedad Digital de Autores y Editores)

sDae (the Digital Society of Authors and Publishers) is a company founded in 2000 by SGAE with the aim of centralising and optimising all its Investigation, Development and Innovation activities. Much of their work involves putting into practice and integrating new systems and technologies that provide SGAE with the means to carry out its work within a digital world.

In recent years, sDae has been especially involved in the TESEO project, which has entirely redefined SGAE's negotiating processes, computer systems and applications and its organisational structure via a new management model.

The other major project for which sDae is responsible is the Portal Latino web site. Via this web site, SGAE was the first collecting society in the world to offer its members a web site creation service, which helps them promote their work. In December 2004, Portal Latino launched the "Locales por la Cara" project, providing its members free access to musical rehearsal studios with the added bonus of a DVD made of their rehearsals, an invaluable tool for promotion. This is a Madrid-based project which aims to widen its coverage to cities such as Barcelona, Seville and Valencia in the near future. Portal Latino is also technologically

responsible for “La Tele Latina” (www.latelelatina.com) which rebroadcasts cultural events via streaming.

2.3 Fundación Autor & Iberautor

In 1997 and at the beginning of 2000, SGAE founded Fundación Autor and Iberautor, respectively. They are responsible for the development of social and cultural activities, including musical promotion, which SGAE formerly carried out itself alongside the management of royalties.

Fundación Autor is financed with 20% of royalties from private copies and spends 50% of its resources for the promotion of music and the other 50% for welfare development. The Fundación Autor’s budget in 2004 was almost €27m; €200.000 was attributed to a welfare system for authors in need, while the budget for its various programmes of awards and premiums rose to €590.500.

Also, €700.000 was used in grants for studies, training and a workshop programme. Its ARTENET programme works towards the introduction of new technologies in creative fields, financing equipment and projects.

2.4 AIE (Sociedad de Artistas Intérpretes o Ejecutantes de España)

AIE is the Managing Society for Artists, Performers and Musicians’ Rights.

The number of AIE members grew by 945 artists in 2004, reaching the figure of 11.380 members, divided as follows:

- 7.990 performers
- 10.138 musicians
- 6.658 of these include those that are performers and musicians

The management of these rights involves the collection and redistribution of a ‘tax’ for the public broadcasting of audio and/or video recordings (radio, television, and department stores), and private copying. This is controlled via random polls according to radio play lists, sales figures, etc.

In 2004, AIE cashed in €17,6m, representing an increase of 80% compared to 2003. It made over €11,9m available to its members, 10,01% more than in 2003.³⁰ The money collected is redistributed with 60% going to the performing artists and 40% going to the musicians.

AIE was founded recently (1989) with three aims:

- 1) The recovery and redistribution of performing artists’ or musicians’ legal copyrights world-wide;
- 2) The defence and development of the performing artists’ or musicians’ rights recognised by copyright laws, and those of their beneficiaries;

³⁰ Memoria AIE, 2004

3) The promotion of assistance and social activities and services for its members, professional training and the promotion of music in general.

AIE's 'Fund for Assistance and Culture' (FAC) is funded by 20% of the income from private copying and 10% of funds generated by public broadcasting.³¹ AIE also develops a policy of support for training, promotion of music in Spain and a collective policy for work accidents.

FAC's main lines of action are:

- the development of assistance programmes
- the strengthening of training programmes
- organisation of and collaboration in activities to promote music

A significant part of FAC's resources are used to encourage a great variety of schemes to promote music. In this way, AIE contributes to financing tours abroad and festivals in Spain.

Furthermore, it has supported *Artistas en Ruta* since 1995, the aim of which is to create a permanent circuit of concerts in small and medium-sized venues throughout the country. Thanks to the positive results of this project, it currently benefits from aid given by the Cultural Councils in many of the autonomous regions. Since 2004, digital television channels Sol Música and 40TV, radio programmes M80 Radio and the national radio station RNE Radio 3, have also provided the project with essential media coverage.

In its 9th year, 2004, 202 concerts were programmed in which 34 groups/artists of all styles performed, originating from 39 different cities.

In 2000, AIE and the Liverpool Institute of Performing Arts (LIPA, founded by Sir Paul McCartney) joined forces in a venture in which a local Spanish artist performs accompanied by LIPA students. Javier Muguruza took part in 2004.

One of AIE's new projects in 2004 was the Support Programme for New Stage Venues in Madrid. Via the organisation of a Solidarity Concert in February 2004, AIE and the Association of New Stage Venues in Madrid (ANEEM), aimed to increase public and institutional awareness of the great need for more venues and the difficulties faced by those that programme live music today.

AIE is also active at an international level, involved in various European and International Federations or Associations for the Management of Artists' Rights.

2.5 INAEM (Instituto Nacional de las Artes Escénicas y de la Música)

This is the Ministry of Culture's 'performing arts' branch. Besides directly running several major cultural venues, the funding and subsidies that it provides to public and private bodies as well as individuals may be grouped into four large categories:

³¹ Memoria AIE, 2004

- 1) The National Auditorium Plan (Plan Nacional de Auditorios), set up to provide certain cities with auditoriums, together with the collaboration of the Autonomous Communities and the city councils
- 2) Subsidies for private companies for concerts, for stage sets, for orchestras, for tours and for renovating concert halls
- 3) Aid for certain festivals
- 4) Grants, backing creation, research and training

Since a change of government in May 2004, a significant increase in the government's interest in culture in general and music in particular has been noted by the sector's professionals (according to Mario Pacheco of record label Nuevos Medios). Although it is perhaps premature to talk of concrete actions in favour of culture, there have been a series of positive declarations that give reason for optimism, not least concerning a reduction in VAT on music and anti-piracy measures.

Nevertheless, within the broad outline of the INAEM's policies, interest in pop music is almost nonexistent. The Ministry for Culture's financial aid almost exclusively benefits classical and lyrical music with the occasional support for jazz.

2.6 AGEDI (Asociación de Gestión de Derechos Audiovisuales)

AGEDI - the Association of Copyrights Management: Management of Phonographic producers' public broadcasting rights - is a non-profit organisation founded by phonographic producers in order to collectively manage the public broadcasting rights from their musical audio and video supports. Radios, televisions, digital platforms and the various venues that use records, cassettes or musical videos must get prior authorisation from the AGEDI to do so.

2.7 PROMUSICAE (Productores de Música de España)

The Spanish Phonographic and Videographic Association is a non-profit organisation whose aims are the promotion and defence of the copyrights of phonographic producers, as well as the actual phonogram and musical video.

PROMUSICAE (formerly known as AFYVE) is made up of 68 Spanish phonographic and musical video producers, mainly the major companies. It is only rarely accessible to independent labels.

It is recognised by the IFPI as its National Group in Spain.

Amongst PROMUSICAE's primary activities is the fight against piracy. It has a specialised department and a legal service to do so.

All of its activities are of general interest to its members; PROMUSICAE undertakes market studies on music consumerism, buyer profiles, the role played by the various distribution channels, and draws up a weekly chart of best-selling records.

On 24 February 2005, PROMUSICAE, alongside institutions such as SGAE, ARTE and the AIE, presented the White Paper on Music, an in-depth study of the musical industry and its influence on the economy and society in Spain.³²

2.8 APPA (Asociación de Productores de Energías Renovables)

APPA was founded in 1976, motivated by the concerns of a group of artistic agents in Catalonia and with the aim of uniting their interests. It offers a wide range of services including contacts, mailings, and publishes the professional magazine El Espectaculo.

2.9 ARTE (Asociación de Representantes Técnicos del Espectáculo)

ARTE - the Association of Performing Arts' Technical Representative - is a national association that groups together artists, managers, agents, promoters and producers. Many city councils use members of ARTE to programme and organise their concerts. Therefore, they specialise in events of cover bands and other 'popular' style live music concerts.

2.10 OPEM (Organización Profesional de Editores de Música)

OPEM - the Professional Organisation of Music - is made up of the main multinational publishing companies: Universal Music Publishing, BMG Music Publishing, Sony Music Publishing, Peer Music, and Warner Chappell Music. It is a professional organisation that aims to defend and promote the rights and the role of musical publishers in Spain.

2.11 AEDEM (Asociación Española de Editores de Música)

AEDEM is made up of 70 of Spain's independent publishing companies. Its role is multiple, including promotion, consulting and negotiating with collecting societies, the media and official bodies in order to protect and defend publishers' rights.

2.12 PAE (Plataforma de Autoeditores)

The PAE - Platform of Self-Published Artists - is an association made up of 38 artists that publish their own music via their own companies. It was set up in Barcelona in 2002 so as to unite the efforts of the various member groups.

Its aim is to demonstrate and facilitate an alternative for artists that do not wish to participate in the record industry in the usual way. This is a response to the current situation faced by artists, the association's members including artists such as Ojos de Brujo, Kilo Veneno, Ani Di Franco, Sin Papeles, Esencia de Vida and Ohm Spirit Sound, to name but a few.

³² El Libro Blanco de la Música en España (Promusicae 2005)

3. Record Companies

3.1 Major Record Companies

As reported in the Music & Copyright article of 27 April 05, the four major companies, members of PROMUSICAE, had a music share of 78,4% in 2004. These companies were set up mostly in Madrid, before the creation of independent record labels. Polygram was established on Spanish soil in 1961; Sony in 1970; Warner and EMI in 1981; Ariola in 1962 in Barcelona; BMG in Madrid in 1986; and the arrival of MCA and Virgin is more recent. The merger of Sony and BMG in 2004 put this new super-group at the head of major record companies in Spain, dominating both the record and music video markets.

Spain is one of the rare countries in which the Universal Music Group (UMG) does not have the largest market share. Music & Copyright estimate that Sony BMG leads the market with a *pro forma* market share of 26,6%; followed by WMG, UMG and EMI respectively.

Sony BMG released six of the Top 10 best-selling albums in 2004 including a sizeable share of local artists (Estopa with *La Calle est Tuya* - 438.000 units; Manola García with *Para Que No se Duerman* - 314.000 units and Andy & Lucas' *Desde Mi Barrio* - 257.000 units). They also released the best-placed English language album, *Anastacia* that sold 189.000 units. Other international successes included Marc Anthony's *Amar Sin Mentiras* (163.000 units) and Julio Iglesias' *Love Songs* (86.000 units). As for music videos, Sony BMG released five of the Top 10 selling music videos in 2004, amongst which the best-seller *Anywhere But Home* by Evanescence, *Live in Barcelona* by Bruce Springsteen (at n°3) and Carlos Nuñez's *Carlos Nuñez & Amigos* (n°4).

Spain is one of the most important markets, outside the United States, for the **Warner Music Group (WMG)**. This success is largely due to Alejandro Sanz whose sixth album, *Grandes Exitos 91-04* was the company's best-seller and n°6 in the Top 10 best-selling albums for 2004, while his latest studio recording *No es lo Mismo* (2003) was still n°34 a year after its release. With its dual structure in Spain, the recently acquired independent company Dro acting as Dro/Atlantic, WMG has also done well with actor/singer Fran Perea and the album *La Chica de la Habitación de al Lado* (a joint release with Globomedia Music) that reached n°11 in 2004. WMG have released or co-released two of the best-selling compilation albums of the year while the soundtrack for the French film "Les Choristes" has also been a considerable success.

UMG's market share has greatly benefited from U2's *How to Dismantle an Atomic Bomb*, having sold over 200.000 units since its release in November 2004. Colombian artist Juanes with *Mi Sangre*, the 27th best-selling album in 2004, has

Sources: Music&Copyright; SGAE

now sold 178.000 units since release, and another UMG success, local artist Tamara's *Canta a Roberto Carlos*, has sold almost 200.000 units since release.

EMI, with a market share of 13%, has had few hits in Spain, a similar situation to that in most of Europe and the US. One exception and its most successful album in 2004 was that of singer/songwriter Bebe with *Pafuera Telarañas*, which reached n° 14 in the best-selling albums chart of 2004.

Although the major groups dominate the Spanish market, there is still an important independent market, and several independent labels have met with considerable success. Most of these record labels, such as Blanco y Negro, Divucsa and Vale Music, are based in Barcelona. Gran Via Musical has been part owned by UMG since April 2004. Their combined market share was estimated at 21,5% in 2004.

Vale is the largest independent record company in Spain with a market share of 10,9% in 2004. Following its huge success with the music from the television talent show "Operación Triunfo", it went out to release the best-selling album of 2004, recorded by former contestant David Bisbal. His album *Bulerías* has sold a million units. Vale also had a hit with another talent show winner, this time a children's talent show, "Maria Isabel" and "No me Toques las Palmas que me". Vale also produced the second best-selling music DVD of 2004, Eurojunior's "Eurojunior Karaoke".

3.2 Independent Producers

In 1983 the first three Spanish independent labels were founded: Munster, Elefant and Subterfuge. All three originated in fan club magazines and then went into the record industry; they are now leaders in their fields.

As previously mentioned, despite the dominance of the majors in the record industry, some independent labels have met with considerable success stories. One such example is that of El Diablo in 2004, which is the 3rd party independent label distribution arm of Gran Via that was not included in the sale to UMG. Previously released by Carlito Records in 2003, singer/songwriter Melendi's *Sin Noticias de Holanda* was the seventh best-selling album in Spain in 2004.

There are three sub-divisions:

- 1) Production/distribution structures:
These are the independent heavyweights. They control the entire chain from production to distribution including marketing, promotion and commercial logistics. There are just a few left such as Harmonia Mundi, Vale Music, Nuevos Medios and V2; the largest having been bought up (Dro and Vogue).
- 2) The large independent producers:
Of the three groups, this is the most uniform. There are fifteen or so and their structure is intimately linked to the personality of their manager. These are either companies or labels, most of which were set up during the 1980s.

They are of no small significance in the national (and sometimes international) 'popular' music market. They are distributed by the major groups and sign few artists for long-term contracts.

One of the most important is Subterfuge with artists such as Marlango, Cycle and Dover (now with EMI).

3) The small and medium labels:

In this category one finds a multitude of small and medium-sized structures that all work within specific market niches on which they have a high degree of knowledge: dance, Spanish 'popular' music, ethnic music and so on. Labels such as Mushroom, Pillow, Sinnamon, B-Core are all included in this category.

The main problem encountered by independent labels is that of distribution. This is a real weakness in the Spanish record industry.

3.3 Independent Record Label Associations

These associations' primary objective is to be on an equal footing with major record labels concerning payment for record manufacturing. Independent record labels currently have to pay SGAE at the time of manufacture and according to the quantity made, without taking into consideration sales figures.

In 2003, the **Independent Phonographic Union (UFI)** was founded largely due to the increasing concentration of the music market in the hands of a few ever-more powerful major record companies. It was also founded in reaction to the problems of piracy which hit the smaller independent labels and producers harder, UFI's members (Nuevos Medios, Naïve, Nubenegra, Pias, Boa, Subterfuge and V2 Spain to name but a few) came together with the aim of co-ordinating their efforts so as to be more effective. Their aim is to present a united front when dealing with the media and political institutions.

Their aims are multiple and include:

- to represent all Spanish independent producers, with delegations in the various autonomous regions and a Madrid-based head office, in order to maximise efforts and effectiveness
- to dismantle the concentration of power in the media, sales outlets and companies
- to eradicate piracy
- to combat the 'payola' (the backhanded payments of the media in exchange for airplay)
- to participate in negotiations for legal improvements (reduction in VAT on music, the setting up of positive quotas)
- to negotiate a specific contract for members with SGAE
- to negotiate producers' rights for music broadcasting over the Internet

The Association of Record Companies of Andalusia (AEDA) was founded on 7 May 1998 by phonographic producers and editors.

Its aims are threefold:

- 1) To give a commercial impetus overseas to the members record labels' productions;
- 2) At a national level, to set up commercial and promotion schemes in order to increase the Andalusian market share;
- 3) To unite and rationalise relations with the bodies in charge of managing producers and authors' rights, which means in more specific terms:
 - The defence of the Andalusian musical cultural heritage;
 - The support and promotion of Andalusian composers and artists;
 - Agreements and relations with Collecting societies: Authors, Performers and Publishers;
 - The drawing up of a common editorial line;
 - Taking part in trade fairs and commercial schemes;
 - Importing of editorial and production licences for management and commercialisation in Spain;
 - Negotiating broadcasting quotas with Radio and Television;
 - Press, radio and television promotion;
 - Publication of a journal;
 - Publishing collective CD compilations;
 - Undertaking of co-productions;
 - Concert and tour co-ordination;
 - Collaboration agreements with official organisations and bodies.

4. Distribution

One of the reasons behind the low sales figures for Spain (when compared with Germany, the UK and France) is distributors' and independent record labels' lack of strategy in distribution, which is applicable across the country. Hence the 'major centres' of musical consumerism are well provided for, such as Madrid and Barcelona, to the point of saturating their markets, while entire regions are ignored by distributors; beyond the big city limits, only the multinationals' 'hits' can be found and sold.

The distribution market is monopolised by the major record labels' distributors which makes distribution for independent companies very complicated.

Nearly 83% (82,9%) of the population buys its CDs in record shops, supermarkets and other types of non-specialised outlets.³³ As far as sales outlets are concerned, they can be divided into two major groups: specialists with traditional record stores and multi-specialists, and the generalists whose activity is not essentially centred on records.

³³ Encuesta de hábitos y prácticas culturales en España 2003, SGAE

The average retail price of CD-albums is €14,80, singles go for €5,40 and MCs for around €8,90 while musical DVD videos are priced €19,30, with VAT at 16%.³⁴

4.1 Independent Distributors

Some record labels have opted for auto-distribution, as is the case for **Resistencia**. Some labels also do this via specialised distributors; as is the case with **Surco**, **BOA** and **Bcore**.

4.2 'Rackjobbing' and Wholesalers

'Rackjobbers' are phonographic publishers. They sell to and manage the shelves of non-specialist outlets, that is to say the numerous retail outlets to be found on Spain's motorways. These are **Disclub Amat**, **Musical 1**, **Oriran Musical** and **DiscoPlay**.³⁵ In fact, whether they manage the day to day business of these outlets or not, the rackjobbers and many of the 25 wholesalers in Spain, have begun to supply more and more small shops whose turnover is too low.

Wholesalers provide approximately 200 outlets with merchandise. The two most important wholesalers are **Discos Arnedo** (that own the Madrid Rock and Sevilla Rock stores) and **Disclub**, which also owns retail outlets.³⁶

4.3 Independent Retailers/Chain Stores

There are 670 shops selling music in Spain, of which just 7% are specialist or chains.³⁷

This sector may be taken as the heavyweight of record distribution. Characterised by multi-product stores such as FNAC, predominantly leisure/culture-based, or very large complexes such as **Discos Castelló** or **Gong** in Barcelona, shops specialised in music represent 46,3% of record sales in Spain.³⁸

This type of distribution has grown to a great extent thanks to sideline activities: concert tickets, signings, showcases or even internal radio or television broadcasts. This type of shop has the largest number of references, often reaching over the 120.000 mark.

One of the leading chains is the German **Mediamarkt** with 23 outlets in the country and a 9% market share.³⁹ The other leading chain is FNAC.

FNAC is thought of by the Spanish public more as 'El Corte Inglés', or a department store, versus a specialised shop. There is a notable lack of selection in certain musical categories, such as jazz or world music. In these sections it is all too clear

³⁴ Promusicae

³⁵ Music&Copyright, 27 April 2005

³⁶ Libro Blanco de la Música en España, Promusicae 2005

³⁷ Music&Copyright, 27 April 2005

³⁸ Libro Blanco de la Música en España, Promusicae 2005

³⁹ Music&Copyright, 27 April 2005

that the degree of stocktaking and orders of novelties and imports is significantly less than at the French FNAC shops.

In Spain, FNAC opened its first shop in 1993 and now has 10 branches across the country, with its Madrid shop a sizeable 5.000 m². Considering the success of the Madrid chapter, this chain has developed a network within the country's two major cities (numerous branches in Barcelona one of which is 3.200 m²), as well as in Valencia, Zaragoza and Alicante. The market share of the FNAC group in Spain is estimated at 10 %.⁴⁰

Department stores:

It is important to note the importance of the chain of department stores: **El Corte Inglés** within the Spanish distribution circuit. This is clearly exceptional. Without being specialists, these department stores play a very important role in the record industry due to their highly dynamic situation. When buying out their main competitor Galerías Preciados in 1995, they doubled their turnover and the number of stores nation-wide. They now own over 120 stores offering a relatively small range of products and have a market share of 23,9%.⁴¹

Independent specialised record shops:

These are the retail outlets that suffer the most from competition, and their numbers are falling.

The main reason for their predicament being that they cannot price their stock at the same level as volume retailers, which slows down sales as the price is a major deciding factor for their generally young clientele.

To compensate for these negative factors, these shops specialise in one type of support (vinyl or CD) or a specific musical genre.

4.4 Super/Hyper-markets

There are some 270 hypermarkets in Spain. The prices at supermarkets are often lower than those at specialist stores, as the record is used here as a loss leader, increasing the average time spent by the consumer in the shop. This is why they often sell with almost non-existent profit margins, while the turnover from this line is rarely more than 3% of the shop's total turnover. In fact, they are not representative of the record market, their strategy being to attract young consumers via records, which is a loss leader for them.

As far as records go, volume retailing works according to the '20/80 rule'. That is to say that 20% of its references represent 80% of its turnover. This is why it prefers high-potential albums, well-known artists and low price bonanzas. Hence the hypermarket offers an average of between 5 and 20.000 references, compared to the 120 to 150.000 of the specialists.

⁴⁰ Music&Copyright, 27 April 2005

⁴¹ Libro Blanco de la Música en España, Promusicae 2005

This greatly penalises independent record labels whose products are far too cutting edge for supermarkets. The market is thereby even harder to enter for new artists.

The supermarkets in Spain are **Carrefour** (125 outlets and 20% market share) and **Al Campo** (Auchan group, 45 outlets, 5% market share).⁴² Their total market share is 29,81%, having developed similar lines to specialist shops over the past few years (greater variety of choice, listening posts, point-of-sale advertising, etc.).⁴³

4.5 On-line Distributors

Although the Internet in Spain is nowhere near as developed as many other Western European countries, it is in the process of expanding. In 2004, more than one-third of Spain's 40m population had an Internet connection. Despite the poor quality of telephone infrastructures, this expansion is occurring very rapidly. This is reflected in the fact that 40% of households with an Internet connection use broadband. ADSL subscribers rose by 111% in 2003 and a further 26% in 2004, despite the relatively high prices charged.⁴⁴

Although there is no longer a monopoly situation in Spain, and competition between companies is very high, Telefónica is far from keen on giving up its dominant position. In 2004, Telefónica's ADSL subscribers totalled 1,9m giving it a market share of 55,5%. This means that cable, broadband and other means of connecting are still under-developed, and their cost remains high.⁴⁵

Some record labels already have their own website, and certain distributors sell over the Internet. SGAE set up its website Portal Latino in 2000, which aims to promote all of its members (totalling more than 80.000).

Vitaminic is a website for groups who have not as yet signed with a record label, and for independent labels. A signed contract binds the two parties. This is a European multinational; the website is autonomous in each country and presented in the national language. It provides other websites and major servers with content (Lycos, Navegalia, Yahoo, etc.) and collaborates with independent festivals and demo competitions as well as organising live tours.

Other online music stores include iTunes, Terra Música, Los40 and a handful of other ISPs and Internet-based download services that use the Loudeye (OD2) platform including Wanadoo, MTV and Tiscali.

There are also a series of hybrid Internet stores such as those of El Corte Inglés, Carrefour, Tipo and FNAC. In April 2005, these sites were selling CD albums for between €12,95 and €17,95 with some new releases up to €19,95. Carrefour's download store charges €1,20 per track, and iTunes, launched in Spain in October 2004, €0,99.⁴⁶

⁴² Music&Copyright, 27 April 2005

⁴³ Libro Blanco de la Música en España, Promusicae 2005

⁴⁴ Music&Copyright, 27 April 2005

⁴⁵ Music&Copyright, 27 April 2005

⁴⁶ Music&Copyright, 27 April 2005

In June 2005, the online distribution site www.musicdld.com was launched with the aim of “promoting and commercialising independent labels and artists catalogues”.

4.6 Mail-Order

There are various mail order distributors and retailers that work well in Spain. The best known of these is El Círculo de Lectores (www.circulo.es) selling not only records but books and other supports. Others are Popes80 (www.popes80.com) and Disc Order (www.disc-order.com).

5. Sales Certifications

Sales certifications in Spain follow international norms with records going Gold after having sold more than 50.000 units and Platinum from 100.000 units sold upwards.

6. Trade Fairs

There are several dates in music professionals’ agendas in Spain, above all for the direct sale of records such as the **Fira del Disc de Barcelona**. However, there is no professional trade fair such as the **MIDEM**. The independent sector’s professionals do not feel the need, for the time being, to meet. Neither do the major groups nor the rest of the sector. One only needs to note the poor attendance of Spanish professionals at European fairs and their lack of knowledge of what is going on in the rest of Europe.

Nevertheless, there is hope and managers and groups do their utmost to tour in France and Germany, with the support of their record labels. European music has slowly begun to filter into Spain.

For the general public, there are various record fairs:

The **Record Fairs of Barcelona, Girona and Reus**, organised by the popular Catalan radio presenter Jordi Tardá: the **Girona Fair**, held its 13th edition on 7 March 2005, with 150 stalls held by record shops, labels, etc; the **Barcelona Record Fair** is now in its 23rd year and took place in November 2005.

The **Mallorca Record Fair**, with its 6th edition held in Palma de Mallorca during the weekend of 17 September 2005, is now the 4th most important record fair in Europe, with 110 professional stands and live acts.

Some festivals also provide stalls for record labels where they often sell quite a significant number of records (Sónar and FIB in particular).

For professional rendezvous, a couple of festivals have a section specifically for professionals:

The Electronic Music Festival, the **SONAR** (held in June in Barcelona), has a professional fair held as part of its daytime activities inside the CCCB (the Barcelona Centre for Contemporary Culture). There is also a Technological Fair presenting new technologies for DJs, studios, etc.

The **Mercat de Música Viva de Vic**, held during the 2nd weekend in September, is also a festival with, for example, had 82 concerts programmed for its 17th edition in 2005. The professional fair has around 65 stalls, many of which are institutional.

7. Publishers

There are four major types of publishers in Spain:

- 1) Publishers who tend to publish work from records released by a specific record label. This is the case of Nemo for record label Nuevos Medios and Penta Music for record label Fonomusic;
- 2) Publishers that publish multinationals' best-known artists who consider the major record label's publishing department insufficient. Such is the case of Clippers Editions for example;
- 3) Publishers that work as subcontractors for certain record labels. This gives rise to co-publishing or administration contracts, as in the case of P.S.M. or Teddysound;
- 4) Specialised musical scores publishers, such as Multimusic.

The music publishing sector in Spain is relatively stable with **EMI MP** and Warner Chapell sharing the lead and a 41% market share.

Warner Chapell, with the largest world-wide catalogue of Latin repertoire, was market leader in 2004 with a 21% market share. Writers signed include Alejandro Sanz, Andy & Lucas and Jorge Drexler. They also published the music to Oscar winning film "Mar Adentro".

BMG MP and **UMPG** are tied 3rd with an approximately 14% market share each. Sony/ATV has less than 10% and the independents share 25% between them.⁴⁷

8. Synchronisation

Around 14% of BMG's revenues come from synchronisation, while UMPG has a high profile within Spanish music theatre thanks to their control of Andrew Lloyd Weber's company Really Useful Group; its administration of the Abba copyrights used in *Mamma Mia!*, and the recently premiered stage show *The Graduate* in which many of Paul Simon's songs are used. The company's most successful synchronisation deal in 2004 involved the music for the television series "Un Paso Adelante" (a fictional 'fame-like' series that has launched the careers of several of its characters).⁴⁸

⁴⁷ Music&Copyright, 27 April 2005

⁴⁸ Music&Copyright, 27 April 2005

9. Concert Ticket Prices

Compared to a few years ago when free concerts were the norm, the number of paying spectators has been on the rise, with the number of free concerts decreasing. In 2004, 19,4% of spectators went to concerts solely financed by ticket sales compared to 15,2% in 2002. The average ticket price is currently €16,18, compared to €12,70 in 2002; unless for very well-known rock stars such as U2 or Eric Clapton when the price can easily rise to over €20.⁴⁹

10. Managers, Agents and Promoters

While the Spanish record industry shares many characteristics with the rest of Europe, the live music industry is quite different.

As already noted, the lack of any legislation covering the various professions of the musical sector means that the jobs that the description of the following jobs are relatively badly-defined. A manager can be an agent, an agent a promoter, and vice versa. Considering the bad structuring of the sector, it becomes a battle field in which flexibility, and also confusion, reign.

10.1 Managers

The Manager is most sought after by groups, yet this is the person who risks a great deal of work for little monetary gain. There is generally no written contract between group and manager until problems arise.

Until recently, the manager in Spain was held in contempt by programmers. Many venue and festival programmers prefer contacting group members directly rather than going through their manager, particularly at the beginning of the group's career. The manager is therefore generally forced into becoming an agent.

Considering the instability of businesses and the fact that most clients are state authorities, manager-agent-sharks who take advantage of the market abound are a source of fatigue for both authorities and groups. This is clearly not the case for managers of well-known groups.

Many of these managers lack serious collaboration with the corresponding record labels, while many of the latter end up doing the job of group manager too. This can be quite an important source of income, even more so, than record sales.

10.2 Agents

Agents tend to be much more in contact with the programmers who will pay an artist's fee; in other words the city councils or festivals. They work as intermediaries between managers and programmers.

In the case of 'popular' music, managers work a great deal with *mayors de zona* (regional agents). They know their clients' likes and dislikes, are loyal to them after many years working together, and find the groups they want for them. They

⁴⁹ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

are not specialised in one particular genre but know the live music industry well. These intermediaries are necessary when organising a tour that aims to be more than just a succession of hired venues, but they can charge very high commissions.

In Spain the artistic agent has 'total freedom' regarding commissions for booking artists, their rates varying between 10% and 50% of the fee as a rule, some even reaching the 60% mark, especially when state authorities foot the bill.

Agents specialising in independent music are called upon, above all, to organise foreign groups' tours, many working with the regional agents who carry out the tasks of local production and promotion. These agents are also often local group managers, venue owners or journalists.

With the explosion of world and fusion music, a small network of managers/agents of local groups has begun to take shape, becoming, in turn the importers/agents of non-Anglo-Saxon groups. This is the case of Yeiyebe, Partenope, Espíritu del Sur, Syntorama and Nordesía, to name but a few. In Spain they mainly represent Cuban and African groups.

In many cases these agents also end up working as promoters, generally with foreign groups.

10.3 Private Promoters

Best-known by foreign managers are the promoters, who organise tours for famous groups, generally Anglo-Saxon. Amongst these we find Dr Music, La Iguana, Cap Cap and Produccion Animades. Their catalogues are vast, having very often signed exclusive contracts with British or American agencies and it is very rare for these promoters to get involved with non-Anglo-Saxon products unless they are best-sellers or heavily backed by the majors. More often than not, they hire venues and work as producers. They organise mini-tours of two or three dates within the framework of European tours of groups such as the Chemical Brothers, Coldplay, etc.

They generally work for the summer month concerts alongside the regional agents that organise the concerts in their specific region (production, local promotion etc.).

Many of these promoters such as Sinnamon (Wintercase Festival) and Advanced Music (Sónar) end up organising their own festivals.

10.4 Official Promoters

As previously mentioned, many of the concerts held in Spain take place during the *fiestas mayores*, organised by the city councils.

One of the most well-established popular traditions in Spain, the *fiestas mayores*, consists of colourful affairs and musicals. They are the occasion for an all-around get-together, where the traditional culture of each city is put on display as well as street theatre and concerts (for all ages and classes of society). These activities

are free of charge, taking place in the street during a week or weekend. In 2004, almost 70% of popular music concerts were sponsored financially by the *ayuntamientos* (city councils).⁵⁰

The city councils are therefore full-blown programmers. They have a *Departamento de Fiestas* that is in charge of the organisation of the various public celebrations. The *Departamento de Cultura* is in charge of the year long programming of the city's theatres, in which there is generally only classical music, theatre and dance offered. Sometimes these theatres put on musical cycles open to jazz and world music.

The *fiestas mayores* are very expensive and use up a large part of the annual budget. This results in little support for bodies working the year round.

The *fiestas mayores* have a duty to be 'popular', which is to reach a very wide cross-section of the population, and therefore city councils almost never risk programming artists that are not 'mainstream'.

Despite the fact that these *fiestas* are free, the general public in Spain is slowly but surely coming around to the idea of paying to see live music. The average price of a ticket is €16,18 unless for very well known rock stars such as U2 or Eric Clapton, which can easily rise to over €20.⁵¹

But it is clear that in comparison to other Western European spectators, the Spaniard is a relative newcomer to the scene of paying for culture; a situation that also applies to buying records.

As well as the *fiestas*, there are city councils that organise their own festivals and musical cycles, such as that of Madrid with *Los Veranos de la Villa*, while Barcelona holds *La Mercè* and the international *B.A.M.*

But certain state authorities other than the city councils (such as the *diputaciones* (councils) or *consejerías* (ministries)), organise their own festivals. The gigantic concerts in Galicia at the turn of the millennium and the Xacobeo 2004 celebrations on the road to Santiago de Compostela are good examples.

The *Red de Teatros* (Network of Theatres in Spain), run by the Ministry for Education and Culture, has begun to open its doors little by little to music and other art forms.

Some autonomous authorities have departments for the promotion of their culture abroad, such as Catalonia (ICIC) and Andalusia (EXTENDA). In the field of music, these bodies use MIDEM as a promotional platform for their region's professionals. But the lack of collective work means that most of the budget ends up wasted on bureaucracy.

⁵⁰ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

⁵¹ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

11. Live Music

11.1 Characteristics of the Sector

The 3rd millennium is that of live music in Spain, with increasing numbers of concerts, spectators and takings every year. Live music is one of the sector's rare growth areas in these challenging times.

	1999	2000	2001	2002	2003	2004
Concerts	56.845	71.045	72.276	72.573	101.323	114.428
Spectators (thousands)	20.105	22.421	21.894	22.961	22.095	21.713
Average ticket prices (€)	11,10	11,20	12,30	12,70	16,80	16,20
Takings (€)	76.858	74.377	79.030	94.486	104.522	120.469

Source : Anuario SGAE 2005

Live music's most active time of the year is during the summer months; at the time of the towns' and villages' *fiestas mayores*. Their programming is typically 'middle-of-the-road' and few of these *fiestas* programme independent groups, particularly if they are not very well-known.

But over the past few years there have been an increase of all types of summer festivals, some very successful, others less so. Some festivals were conceived with high expectations that were never met while others did far better than forecasted (Viña Rock with 30.000 spectators, with an almost exclusive Spanish programme; Monegros Festival; and Primavera Sound).

Venues have sprouted throughout the country over the past few years, little by little forming stable networks for concerts.

But Spain continues to be a destination not of tours, but of small series of concerts for foreign artists who typically perform in Madrid, Barcelona and other provincial towns such as Valencia or Bilbao.

It is important to remember that in Spain, much of the musical programming is carried out by the City Councils (*Ayuntamientos*). This is the case whether for the *fiestas mayores*, to which they allocate a fair share of their budget, or the Auditoriums and other stages which never programme anything but classical music. And at the same time, the major concerts of artists (such as Paul McCartney, Metallica, U2, and The Chemical Brothers) are organised by these City Councils, assuming the role of producer together with private sponsorship (beverages, fashion labels, etc.).

Hence numerous festivals (in particular world music festivals) have municipal backing, in which the city provides for a large part of the financing, together with the corresponding Council (*Diputación*) and Regional Council (*Gobierno Autónomo*).

11.2 Geographic Priorities

Most concerts in Spain take place in a few key cities. This is due to three factors:

- 1) Two-thirds of record sales are concentrated between Madrid and Barcelona;
- 2) The significant imbalance of wealth, and therefore of population, between the various cities and autonomous regions;
- 3) The political leanings of city council politicians and the almost non-existent vision of non-‘popular’ music (anything but middle-of-the-road and classical) as culture and thereby worthy of investment.

The key cities, in addition to festivals, comprise the following:

Madrid, Barcelona, Zaragoza, Valencia, Seville, Granada, Vigo, A Coruña, Gijón Bilbao, and San Sebastian.

11.3 Venues

The venues in Spain have also improved; they are well-established in their regions and well-equipped. Most of them programme both concerts and discos, especially since DJs are a sure way to fill a venue. Their capacities range from 400 to 1.000 people and they tend to be located in the regional capitals.

The lack of norms means that most small-capacity venues have substandard technical infrastructures in terms of sound, lighting, acoustics and dressing rooms.

Most venues do not pay artists’ fees; the few private clubs that do, pay musicians between €80 and €100. Electronic music clubs are an exception in that they pay their DJs.

Venues do not have to pay welfare costs or any other type of tax. The artists are always paid cash and generally without a contract.

There is an unquestionable deficit in terms of well-equipped venues for concerts in Spain (both for the public and the artist). Hence concerts for artists such as U2, Metallica and Anastacia, take place in sports halls or in vast open-air venues such as bullrings or football stadiums. As part of the global development of Spain’s cities, there has been a proliferation of concert venues with a capacity of between 100 and 1.000 spectators. Yet these venues have all too often problems of security and poor acoustics. Nearly 30% (27,6%) of concerts with less than 2.500 spectators in 2004 were held in discos or *salas de fiestas*.⁵²

But as noted above, gigs in Spain are a relatively recent phenomenon and the Spanish public is not able to compare with other European venues, for example, and thereby often accepts the unacceptable in terms of acoustic quality.

As far as conditions for artists are generally concerned, the venues are relatively badly-equipped. Most do not have dressing rooms with showers and the catering

⁵² Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

may simply consist of the provision of beverages. Most venues do not have facilities for buses or lorries to park close by.

It should be noted that these venues do not have investment or operation subsidies that would allow them to improve their technical conditions.

In July 2005, the two major associations of music venues - **ASACC** in Barcelona (with 30 members) and **La Noche en Vivo** in Madrid (with 34 members) - and a series of venues from around the country joined forces in the national ACCES (State Cultural Co-ordinator Association of Live Music Venues), with the aim of promoting and defending its member venues' interests at a national level.

Amateurs of house music have a large (unofficial) network of discos along the Mediterranean coast known as the *Ruta del Bacalao*, which is very popular during the summer. This has also inspired a series of very successful house music compilations by record labels such as Vale Music and Blanco y Negro.

11.4 Festivals

The Spanish macro-festivals are the following:

- **Intercéltico de Ortigueira** - free Celtic music festival, in July; 90.000 spectators
- **Viña Rock** - hip hop and rock in Albacete, in May; 40.000 spectators
- **Etnosur** - world music and hip hop in Jaén, in July; 30.000 spectators
- **Festimad** - pop and rock in Madrid, in May; 18.500 spectators
- **Sónar** - Advanced Music in Barcelona, in June; 41.000 spectators
- **Primavera Sound** - pop, rock and electronic music in Barcelona, in May; almost 13.000 spectators
- **Womad Las Palmas** - world music in the Canary Islands, in November; with 40.000 spectators
- **Creamfields Festival** - dance music on the beaches of Almería, in August; 19.000 spectators
- **Mar de Músicas** - jazz in Cartagena, in July; 18.000 spectators
- **Pirineos Sur** - world music in Lanuza, in July; 14.000 spectators
- **Monegros Desert Festival** - formerly the Groove Parade, electronic music in Huesca, in July; 30.000 spectators
- **FIB** - in Benicàssim-Castellón - rock and pop, in August; 40.000 spectators; This began in 1995 with 8.000 spectators and today brings together an international and local audience of over 40.000
- **Mercat de Vic** - in Vic, a world music trade fair and festival, in September
- **BAM** - in the streets of Barcelona, in September

It is interesting to note that several of these large festivals have put on extra-musical activities: camping, average and exotic restaurants, alternative markets (tattoos, piercing, clothes, etc.), Internet connections, NGO stalls, extreme sports, exhibitions, video screenings, fashion shows and more. This explains why a part of their audience, which grows year after year, goes to these festivals without even

knowing who is performing, or the poor infrastructures awaiting them (few toilets, few showers, etc.).

Despite this, the major festival programmers go for best-selling names and contact the most sought pop-rock-techno stars 10 months before the festival. In order to have them perform, they are willing to spend a large part of their artistic budget on their fees, which means that the other artists (national or lesser known international artists) are used as fill-ins and are badly paid.

The development of **world music festivals** should be noted, following in the footsteps of the institutional and pioneer WOMAD (WOMAD Canary Isles and WOMAD Caceres), with often innovative and very interesting programmes. Amongst the major world music festivals are **Pirineos Sur** (Aragón), **La Mar de Músicas** (Cartagena), the **International Festival of Popular and Traditional Music of Vilanova i la Geltru** (Catalonia), and the **Mercat de Vic** (Catalonia).

11.5 The Practical Organisation of a Tour

Taking into consideration this country's specific characteristics, in order to organise a tour for a foreign artist in Spain, it is advisable to work with a local office or agency that takes care of the technical organisation as well as promotion, tax returns and so on. It is important to get references for their professionalism and results beforehand, if the agency or producer is not already known.

It is unfortunate that the authorities have not taken onboard technical professional training (whether in production or organisation, promotion, programming, etc.). The result is a lack of professionalism, which is why it is preferable to work with a local production company with sufficient guarantees provided.

It must also be underlined that multinational record companies invest little interest and money into promotion; above all for less popular artists and those not in the charts. On the other hand, promotion offices specialising in music hardly exist in Spain, at least not free-lance or major communication agencies for large-scale campaigns.

The situation is worsened by the almost non-existent impact of alternative artists on the media's commercial agents. This is very much the case for the radio, which airs almost exclusively commercial music, even on the state-run radio stations. The only means of promotion is in the alternative press.

As for concert venues (almost all private), most of them do not have quality infrastructures or dressing rooms; nor do they have their own programming. They therefore do not pay artists' fees; the venue has to be hired and for the most part the sound and lighting crews need to be reinforced. It goes without saying that these venues do not have official funding either.

Most festivals take place in summer, many of them free for the public thanks to funding and sponsorship by City Councils. Hence the quality of programming is not

very high. In recent years however, the authorities have begun to delegate the production and organisation to independent companies, which has improved the general level of organisation. On the other hand, the private festivals tend to be better organised and the artists treated with more consideration; but these are still a minority.

From a tax point of view, Spanish law for the artistic field is not very clear. In principle a foreign group performing in Spain is exempt from VAT (16% of the invoice) although theoretically, a 25% deduction for the IRPF tax has to be applied which the artist may then claim when paying his taxes back at home. The size of this reduction means that the artist refuses to have it deducted from his/her fee and the promoter also refuses to pay him/herself. If this happens, the artist can invoice a sum for production costs and the remaining amount as a fee or payment for the musicians, an amount on which the aforementioned tax is levied. In this case, each musician must be registered with the Social Security services. The final option, given that the Treasury rules are still not sufficiently clear, is to consider a foreign artist an imported product. In cases such as these, there is no question of either VAT or the IRPF tax.

It is important to remember that SGAE takes 10% of the price of each ticket sold in authors' rights, whether the costs have been covered or not. For each concert, the group has to fill out the *Hoja de Autores* (Author's Form) and make sure that the payment has been made. Once back home, the author's rights can be claimed via the artist's collecting society.

Needless to say, commercial companies tend to sponsor only major concerts or festivals with high-level media coverage, but never medium or small-scale concerts and tours.

For the moment there are no exchange programmes for artists between different countries, only the occasional one-off event.

12. Music Genres

Since the 1990s, the considerable evolution in Spain of scenes such as alternative pop-rock, electronic music, hip hop and world music has led to a dense and diverse field, along the lines of other European countries. In recent years, the most independent and alternative scenes have gone through a certain normalisation process, linked to modern trends in pop, rock and urban culture; expressed via a specific network of festivals (some of which are massively attended and of very high artistic quality, such as Primavera Sound in Barcelona and the FIB in Benicàssim), record labels and media outlets.

Nevertheless, this only reflects part of Spain's musical landscape. Alongside the aforementioned scenes, and playing a leading role in the mass media, the grand front of commercial music is deployed, with a national productions quota of 50% of all record sales.⁵³ As a result, the Spanish market is a permanent battleground for

⁵³ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2004

the country's artists' latest releases, for the most part in commercial genres: formula-radio pop, lightweight flamenco-style songs and Latin rhythms for the summer months. Between 2001 and 2002, the *Operación Triunfo* phenomenon (the Spanish televised talent show, equivalent of FremantleMedia's "Pop Idol"), with sales of a new breed of artists such as David Bisbal reaching millions, represented the most striking side of this national easy-listening product trend.

The crux of the matter is that the grave crisis that the record industry in Spain is undergoing, in part due to the country's very high levels of piracy, has led to major record companies' reluctance to invest in minority or higher-risk musical genres. In 2000, a Spaniard bought an average of two (legal) records a year; in 2004, this had reduced to 1,1. Hence the industry is being careful; it gives priority to 'sure' releases and leaves the rest to independent companies. Faced with this problem, live music has become one of the best bets, as shown by the annual growth of the number of live concerts: 56.845 in 1999; 114.428 in 2004.⁵⁴ These figures include the numerous thematic events on offer such as festivals specialising in independent pop, urban rock, electronic music, world music, etc. All of which is making the Spanish live music scene a very active one, especially in the two leading autonomous regions of Catalonia and Madrid.

12.1 World Music

Intrigue with foreign music has rocketed in Spain over the past decade. In addition to the international emergence of the world music label, which also occurred in this country, Spanish society has become increasingly mixed, a reflection of a constantly and rapidly growing rate of immigration. In 1996, foreigners living in the state's two major urban centres - Madrid and Barcelona - represented 2% of their population; by 2005 this had increased to 15%.⁵⁵ As a result, these new citizens have brought their musical forms, mixed with indigenous styles, giving rise to authentic emerging scenes. This process is concentrated in its live form in a double circuit; the major cities' concert venues, which attract a more informed public, and summer festivals, certain to have very considerable crowds such as Pirineos Sur (Lanuza, Huesca), Ortigueira (La Coruña) and La Mar de Músicas (Cartagena, Murcia). Meanwhile, others are smaller in size but equally prestigious such as Vilanova (Barcelona) and EtnoSur (Jaén).

The international world music star system has had Spain as part of its concert schedule for many years now, and the most popular and important artists in the circuit can count on a loyal audience. Spontaneous support for artists has been noted, such as that for Cesaria Evora, Goran Bregovic and the stars of Franco-Maghrebi raï. The emergence of the Balkan scene was echoed with force in the programmes of world music festivals, just as the ever-active Brazilian scene. The African scene has a stable following; figures such as Youssou N'Dour and Salif Keita fill 2.000 capacity concert halls in Madrid and Barcelona. Also, artists from neighbouring Portugal are becoming well known. Besides the already familiar

⁵⁴ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

⁵⁵ Ayuntamientos of Barcelona and Madrid

Madredeus, *fado* revival artists such as Mariza and Cristina Branco are gaining in fame.

The Latin American world has a notable bearing on the country's agendas, with a special emphasis for the explosion of Cuban music over the past few years: the *Buena Vista Social Club* effect has made the participants into very popular figures in Spain and has opened the door for other projects such as Orishas whose following in Spain is substantial.

In tune with the aforementioned trends, Spanish cities' musical scenes are being shaken up by the recent waves of immigration. Especially noteworthy is the already baptized *sonido Barcelona* (the sound of Barcelona), initially linked to Manu Chao's residency, which is now based in the central and historical quarter of the Ciutat Vella. Many groups have given naturalisation papers to a mix of cross-cultural musical genres that incorporate fusions of reggae, rumba, flamenco, rock, Latin rhythms or Brazilian *batucada*. Examples of such groups are: Ojos de Brujo (awarded the BBC World music Award for Best European Group in 2004), Macaco, the recently-disbanded Dusminguet, Wagner Pa, Muchachito Bombo Infierno, Cheb Balowski, 08001 and La Kinky Beat. Also, African artists living in Spain such as Nino Galissa, Las Hijas del Sol and Bidinte are making their way in this circuit.

At the same time, music with more regional roots has also grown. At the end of the 1990s, Galician and Austrian artists such as *gaita* players Carlos Núñez and Hevia Celtic, made them into pop stars. In the south, flamenco is a genre with a very strong base, but it is also present in other places in the country, particularly in Madrid and Catalonia: artists such as patriarchs Enrique Morente and Paco de Lucía, just as Tomatito and Carmen Linares are cult figures and the scene is constantly bringing forth new blood such as Estrella Morente (Enrique's daughter), Diego el Cigala, Duquende, Miguel Poveda, José el Francés and Ginesa Ortega. In Castile, local folklore is being brought back to life thanks to the work of veterans such as Eliseo Parra and La Musgaña; while in Aragon, Carmen París mixes the local *jota* with pop and Brazilian music. In the Basque country, folk is very much alive thanks to figures such as Kepa Junkera, Tapia eta Leturia, Oskorri and a multitude of other artists. And in the Catalan-language territories (Catalonia, the country of Valencia and the Balearic Isles), besides renowned figures such as Maria del Mar Bonet, Al Tall and Miquel Gil, other "roots" projects such as those of L'Ham de Foc, Relk, Pomada and Mesclat have appeared, some of which are fusions with new electronic music.

12.2 Pop-Rock

The Spanish pop-rock scene emerged and took shape during the 1980s. First with the apparition of groups with mass followings (Mecano, Radio Futura, Alaska y Dinarama, El Último de la Fila, La Unión, Duncan Dhu) and later, at the beginning of the 1990s, with the emergence of an alternative scene giving rise to an active star system. This double circuit is currently very clear: the commercial stars, with sales reaching six figures, frequent the major media channels, while the independent scene occupies alternative minority niches with an informed and militant audience.

In the preponderant commercial world, the Spanish pop-rock scene is shared between a number of survivors of the 1980s that continue to be popular (like Manolo García, former singer of El Último de la Fila, and the re-formed Hombres G) and artists who have come to light during the last decade, such as La Oreja de Van Gogh, Amaral, El Canto del Loco, Jarabe de Palo and Antonio Orozco. This is generally 'nice' pop with easy refrains, good to broadcast and sometimes in tune with a Latin rhythm vibe. An even better example is the duo Estopa, whose fusion of rock and rumba with a 'street' touch has turned them into best-sellers. The latest to join stardom is the Extremadura-born singer Bebe; she possesses a cross-culture style with socially-aware lyrics.

In Spain, so-called urban rock is especially popular, with its socio-political, and at times sarcastic, slogans. These are groups such as Extremoduro, Ska-P, m Rosendo, Barricada, Reincidentes y Soziedad Alkohólika; the latter two heirs of the Basque radical rock that emerged during the 1980s. It borderlines heavy rock, also a very active scene centred in Madrid. There the star group is Mägo de Öz, with a recipe of epic hard rock and elements taken from the Celtic culture that has taken them into the Top 10 with ease. Sôber, closer in kind to Nu-metal, also has a wide audience.

The Spanish independent scene started to become known at the beginning of the 1990s, when the first records of groups such as Surfin' Bichos, Penélope Trip, Australian Blonde, Corn Flakes and Bach Is Dead were released. The development of festivals, particularly those held in Benicàssim (the FIB founded in 1995) helped to strengthen a scene with its own classics such as Los Planetas, La Buena Vida, Manta Ray, Beef, Nosotràsh, Sexy Sadie and Sr. Chinarro. This is a highly-diverse scene, ranging from the renewal of noise-rock to electronic pop, via sentimental house and the experimentations of post-rock. It is also one of Europe's most vibrant scenes and at the same time one of its least known, with the exception of the occasional international excursion of certain groups.

Nowadays, remarkable projects attracting attention are author Nacho Vegas's rock (ex Manta Ray); Élena; the sentimental pop of Refree; the experimentation of Migala (with a certain impact in France); 12Twelve and Balago; the poetic eclecticism of Pauline en la Playa; the post-hardcore aggression of The Unfinished Sympathy; the ironic techno-pop of Astrud; and rock with a black soul from Atom Rhumba, to name but a few. A special mention goes to Dover, a group that emerged from alternative circles but that has turned into a massive phenomenon capable of attracting both a hardcore and metal audience.

Simultaneously, the communities speaking languages other than Castilian have their own scenes, in general with little impact outside their own circles but with decent numbers of followers and little by little gaining the respect of the critics. In Catalan speaking spheres, the flagship group is Els Pets whose records of melancholic pop turn at around 50.000 copies. Other noteworthy artists are Adrià Puntí, Gerard Quintana (ex Sopa de Cabra), Obrint Pas from Valencia and Antònia Font from Mallorca. Not to mention Basque productions with the outshining but already veteran Fermin Muguruza (former singer with cult groups Negu Gorriak and Kortatu) and groups such as Betagarri, Berri Txarrak and Su Ta Gar.

12.3 Electronic Music

During the 1990's, the electronic scene in Spain underwent a spectacular expansion, parallel to events abroad. Although with precedents from the previous decade (techno-pop and experimental pioneers like Aviadro Dro y Sus Obreros Especializados and Esplendor Geométrico), this was when a network of specialised record labels, clubs, festivals, DJs and live artists was created. Nowadays, electronic music is listened to in many forms as live music, but record sales are stable, with a few exceptions at lower levels.

Barcelona is the cradle of the most important festival, Sónar, with 12 editions behind it. This is a mass phenomenon that attracts more than 80.000 visitors each year, many of whom are foreigners. Although a programme full of *avant-garde* projects is on offer, most punters concentrate on the performances of popular attractions such as The Chemical Brothers and Jeff Mills, artists that bring together thousands of people during their sporadic visits to Spain's cities. From the very beginning, Sónar sparked off the city's nightclubs such as Mogg, Nitsa, Mond Club, Dot, City Hall, Pocket Club and The Loft, making Barcelona the epicentre of Spain's electronic scene. Ibiza deserves to be mentioned, having created its very own sub-genre, the so-called *Balearic Beats*, with gurus such as DJ José Padilla from Café del Mar; a venue that has become the brand name of *chill out* and publishes its own records. Other festivals attracting large audiences that have since emerged are the Groove Parade (Huesca) and Creamfields Andalucía (Almería).

At its most 'popular' level, Spanish electronic music has given rise to a sprinkling of stars: the singing actress Najwa Nimri and veterans such as Fangoria (with Alaska, a charismatic figure that lead groups Alaska y Los Pegamoides and Alaska & Dinarama during the 1980s) and the duo OBK; the latter with a foot in the formula-radios. In these cases, this is electronic music related to pop and the Spanish *canción*. There is also a generation of artists that move in different, less commercial circles, from electronic pop to drum'n'bass, house and abstract music, with smaller followings.

Artists such as An Der Beat, Mell Allen, The Frogmen and Parade represent the stylistic diversity of the Spanish scene; with cult figures such as Astrud, and over the past few years, innovative projects such as Fibla and Strand. The electronic scene has developed from a specialised circuit of independent record labels such as Minifunk, So Dens, spa.RK, Satélite K and Foehn. Blanco y Negro are leaders in the field of dance music for audiences across the board.

The other major branch of electronic music is that of the DJs, who have become figures of reference in clubs and festivals, some of them renowned at the international level. During the last few years of the 1990s, a star system was formed with names such as Ángel Molina, Óscar Mulero, Toni Rox, Sideral and Omar. Others are joining in the 21st century: Leandro Gámez (shot to fame thanks to his stint at London's Fabric), DJ2D2 (founder of the collective FATproducts), Dj de Mierda, Cristian Varela and Herois de la Catalunya Interior, to name but a few.

12.4 Hip Hop

The hip hop scene has provided Spanish music with many surprises in this first decade of the 21st century. According to a survey of music industry professionals carried out by SGAE this is the genre from which they expect the most innovation in the short term, more so than pop, fusion, flamenco and electronic music. In just a few years, this has stopped being a marginal form of expression to occupying a central place in the musical display cabinet. The crucial moment occurred during the 2002-03 season when the soundtrack of *8 Mile* by Eminem sold over 200.000 copies in Spain, at the same time that the country's first major star in the scene, Mala Rodríguez, emerged with her much-admired first album *Lujo ibérico*.

The roots of Spanish hip hop go back to the end of the 1980s with Madrid at their centre, the city that continues to capitalise on a good chunk of the scene. The compilation albums *Madrid hip-hop* and *Rap'in Madrid* with artists such as Sweet and MC Randy opened the way for a microcosm that took a few years to develop. In the first half of the 1990s, groups such as Def Con Dos, Eat Meat, Parafunk and Foreign Nation came to the fore in Spain, but it was in 1995 that the first album by El Club de los Poetas Violentos, *Madrid zona bruta* was released, from which the modern Spanish hip hop scene sparked.

Records companies such as Zona Bruta, Avoid Records, BOA (a distributor turned record label) and Fündamental continue to play a central role in the genre's dissemination, gaining strength in the country's major cities' metropolitan areas. Currently there is great diversity on offer, from Iberian versions of North American *gangsta rap* to buoyant fusions with Latin and flamenco genres.

At the same time as El Club de Los Poetas Violentos, other key hip hop groups emerged in Spain, such as the dynasty Violadores del Verso/Doble V, Sólo los Solo, 7 Notas 7 Colores (with Mucho Muchacho, now solo), Los Verdaderos Kreyentes de la Religión del Hip-hop and La Puta Opepé. Meanwhile, Jotamayúscula and Frank T have alternated productions with their own work, and female rappers have also come onto the scene, such as Arianna Puello (a Dominican living in Girona) and Shuga Wuga. In this field, the unrivalled queen is unquestionably Mala Rodríguez, who mixed her hip hop with flamenco when working with guitarist Raimundo Amador for her second album *Alevosía* (2004). The latest phenomena are: from Madrid, La Excepción and from Seville, SFDK who also incorporate elements from their indigenous cultures, which is a new road with many possibilities for the future. A compilation album, *Hip jondo, hip-hop cañí & flamenco rap*, released in 2005 by El Diablo! with songs by Mala Rodríguez and La Excepción amongst other artists, has also followed this new trend.

Furthermore, there are many signs that show hip hop has been taken on board by the average Spaniard. This is confirmed by the emergence of certain artists with highly commercial profiles that include elements of the genre in their music and are aired on formula-radios. This is the case of the female trio Las Niñas (with Alba

Molina, daughter of the renowned flamenco duo Lole & Manuel), Raket Winchester and Junior.

12.5 'Variety' Music

The phenomenon of the *Operación Triunfo* (OT) show, above all between 2001 and 2003, resulted in the apparition of a new front of highly popular juvenile figures linked to musical genres known as 'light' canción, flamenco pop and Latin commercial music. This is a market in which large numbers of records are sold, although with limited audience loyalty. Currently, David Bisbal is the overall winner of the televised saga with a flourishing career in both Spain and Latin America, while most of his companions on the show (Rosa, Manu Tenorio, David Bustamante, Chenoa, Nuria Fergó, Beth, Manuel Carrasco) are following more discreet careers, while others have been forgotten altogether.

At the same time as OT, other artists that have emerged from successful television programmes, such as Fran Perea and the motor-racing team *UPA Dance*, have proved that television promotion is a great ally of commercial music although it hardly leaves a trace in audience ratings. It is important to remember that one of the major commercial phenomena of 2005 in Spain was a nine-year-old girl, María Isabel, the winner of the international Eurojunior competition.

The field of Latin pop is one that has caught the attention of the grand public over the past few years. Besides the aforementioned David Bisbal (with a million copies of his second album *Bulería* sold), other voices have come to the forefront such as David Civera and Raúl, closely following the example of American stars such as Ricky Martin and Chayanne, also very popular in Spain. On the other hand, there is a substantial amount of music with roots in Andalusian folklore and popular folksongs. Figures such as Rocío Jurado, Isabel Pantoja and María del Monte maintain their commercial clout. During the last few years, certain new voices have occasionally entered this arena with good audience results such as Mónica Molina, Pasión Vega and Tamara. Other artists have mixed flamenco-style music with pop and even techno-pop, such as the Madrid-based trio Camela.

Within the field of less folkloric 'light' canción, Spain has traditionally given rise to many noteworthy singers, such as the international superstar Julio Iglesias, as well as Raphael, Camilo Sesto, José Luis Perales, Francisco, Juan Pardo, Rocío Dúrcal and many others, most of whose careers are largely orientated towards a Latin American market. The popular appeal of these artists amongst Spain's young public is nevertheless falling. An exception is Alejandro Sanz, the best-selling artist of the country, whose best hit *Más* (1997) sold 5 million copies in Spain and Latin America. His is a spirited and melodic pop and with his latest album *No es lo mismo* (2003), has taken on board certain elements of hip hop and flamenco. Other artists such as Miguel Bosé (with a pop vibe) and Sergio Dalma (specialising in romantic ballads), maintain their popular appeal in a scene whose latest phenomenon, the Basque Álex Ubago, has sold over 1 million copies of his sentimental *canción* with touches of pop.

The other major axis around which Spanish commercial music turns is the summer *canción*, a phenomenon that has repeated itself year after year, albeit with

variations, since the 1960s. In general these are ephemeral artists that have a commercial hit with a very catchy song, sometimes linked to a specific dance and choreography. The group Los del Río revived the trend with its famous *Macarena*, and in successive years artists such as Papá Levante, Los Caños, Andy & Lucas, Las Ketchup and King África have become regulars of this peculiar circuit.

12.6 Spanish *Canción*

In Spain there is a musical label, *canción de autor* (author's *canción*), that defines a genre in which the instrumentation is as important as the lyrical message, which is often poetical or of a socio-political nature. The figure of the singer-songwriter often has underlying ideological connotations, due to their role during Franco's regime. During the 1960s, the Catalan collective Els Setze Jutges promoted a musically austere style, generally limited to one voice and a guitar, from which veiled messages of insurrection were launched.

The Catalan *cançó* sparked off a whole generation of stars that are still very active today, maintaining their role of charismatic figures and references of public opinion: from Joan Manuel Serrat, Lluís Llach, Raimon and Maria del Mar Bonet (all of which are from Catalan speaking circles) to Luis Eduardo Aute and Hilario Camacho (Madrid), Paco Ibáñez, Mikel Laboa and Benito Lertxundi (Basque country) and José Antonio Labordeta (Aragón). According to each case, their influences range from Francophone references to the politically militant Latin American *canción* and, with the passing of time, their political commitment has moved to a 2nd level: Serrat, Joaquín Sabina and the couple formed by Víctor Manuel and Ana Belén have tackled sentimental and local customs issues with great commercial success.

With the fall of the Franco regime and the advent of democracy, the author's *canción* went through a value crisis and had to redefine itself. During the 1990s a new generation of troubadours began to use the label again: Rosana (whose first album sold a million copies), Pedro Guerra, Ismael Serrano, Javier Álvarez, and the Uruguayan living in Madrid, Jorge Drexler (winner of an Oscar 2004 for best song) have boosted the revival of a genre that is progressing with the assimilation of new influences (Brazilian and African music, rumba, personal versus political lyrics). This has found a plentiful audience, generally between 30 and 50 years of age. At the same time, other less commercial artists with certain prestige have recorded highly praised works such as Andalusian Javier Ruibal; the Basques Jabier Muguruza, Ruper Ordorika and Anari; the Catalan Roger Mas and Lúdia Pujol; and from Valencia Feliu Ventura. These artists possess a personal and mature vision of *canción*, far-flung from hit formulae, and with a marginal but loyal audience.

13. The Media

13.1 Overview of the Media in Spain

The state of the media in Spain is sadly not one of diversity. On the contrary, mainstream rules and formatting are the name of the game. For any type of music other than that of selling-chart songs, television is out of reach as are almost all

radio channels (save the national RNE Radio 3 channel). Formula radio is the norm as well as the illegal practice of ‘payola’, which concerns record labels paying the media for airspace.

Independent labels looking to promote their artists have almost only the press to support them. Live performances are henceforth a very important means to increase the ‘shelf-life’ of an album.

Television is the media that the Spanish population consumes the most: 98% of the population regularly watches television; magazines reach just 53,2%; radios 59,6%; daily newspapers are to be found in 30,3% of Spanish homes; and Internet has so far only reached 31,3% of the population.⁵⁶

When talking about music, it is important to mention the PRISA group. Its empire ranges from daily newspaper El País, to radio station Cadena SER (with the wide-ranging audience of “Los 40 Principales” show). It even has its own record label, Gran Via Musical, with branches in distribution and festival organising (Media Festivals) as well as shares in the broadcasting sector.

13.2 Radio: National, Regional and Specialist Programmes

This is an overview of generalist radios in Spain:

RADIO AUDIENCE (in thousands of listeners)

National market in Feb-March 2005			
Radios	Listeners	Radios	Listeners
Cadena SER	4,858	Radio Euskadi	264
Cadena COPE	2,189	Radio Galega	143
RNE-Radio1	1,715	Com Radio	102
Onda Cero	1,717		
Catalunya Radio	610		
Sur Radio	331		

Source : Anuario SGAE de las artes Escénicas, Musicales y Audiovisuales, 2005

More specifically, the following are Spain’s musical radio stations:

MUSICAL RADIO AUDIENCE (in thousands of listeners)

National market in Feb-March 2005			
Radios	Listeners	Radios	Listeners
40 Principales	2,576	Kiss FM	1,247
Cadena Dial	1,238	Radio Clásica	130
Cadena 100	713	Flaix FM	118
M-80	696	Canal Fiesta	430
Radio Olé	376	Rac 105	143
RNE-Radio3	254		

Source : EGM

⁵⁶ Encuesta de hábitos y prácticas culturales en España (SGAE)

As one can see, radio in Spain is dominated by the group SER (part of the media company PRISA) and has been for many years. This is largely due to its charts radio show, “Los 40 Principales”, and its Spanish language network Cadena Dial, the most popular musical network in the country. “Los 40 Principales” has an audience rating of 2,576m daily listeners, which makes it the largest generalist radio in the country. It is very difficult for a small record label’s artists to be broadcast on Los 40 Principales.

Spain’s leading telecommunications company, Telefónica, has bought the Onda Cero and Voz networks, making it the 2nd radio group in the country. The 3rd largest group of commercial radio is COPE, which is run by the Catholic Church.

Formula radio, playing charts music, is more or less the only type of musical programme in Spain, and this situation makes it difficult for those not reaching the magical Gold record sales quotas to survive.

The National Spanish Radio, **RNE Radio 3**, claims to be the only national radio, and the only one of any weight, to support almost exclusively ‘independent’ music. It is the only radio station to incorporate artists ranging from those with a single demo to foreign groups not yet distributed in Spain, as well as backing all festivals of independent music. This is done without having to put up with any type of advertising or news items of any kind, which makes Radio 3 a strong supporter of the independent Spanish musical industry; its listeners are loyal and it contains a high degree of musical culture.

There are also very few ‘pirate’ radios, with just a scattering of listeners. At the time of the creation of municipal radios, there was a strong possibility of setting up a network of independent-minded radios if they had not opted for the charts formula. There are practically no university radios.

In 1997, the Circulo de Bellas Artes was founded in Madrid with its own radio, **Radio Circulo**. It is one of the rare radios presenting open-minded and eclectic programmes.

13.3 Television: National, Regional and Specialist Programmes

The three main Spanish television channels are: **TVE1**, **Tele5** and **Antena 3**. The former channel is state-owned, and the two latter are private. In 2003, TVE1 led with an audience share of 24,6% while Tele5 (23,5%), Antena 3 (22%) and TVE2 (5,7%) followed.⁵⁷

Recent figures show that TVE1 has an audience of 8,7m viewers per day; Tele 5 recently overtook TVE1, viewed by 9,017m Spanish households. Antena3 has 8,48m daily viewers.⁵⁸

⁵⁷ Music&Copyright, 27 April 2005

⁵⁸ Anuario SGAE de las artes Escénicas, Musicales y Audiovisuales, 2005

It is very important to take into consideration autonomous television channels, which are presented in each regional language and often may have more viewers than the nationwide channels. This is particularly true in Catalonia as well as in the south with Canal Sur; in Galicia with TV Galega; and the capital's local television Telemadrid.

There is very little room for music on commercial television and the small amount that exists is programmed late at night and remains almost exclusively mainstream pop. There is nothing on Antena 3, and little on autonomous television with the exception of Sputnik, Loops and Rodasons on TVCatalunya; and Músics del Món on Canal 33 (Saturday at 12.50), which are both Catalan television channels. "La Tierra De Las Mil Músicas" is broadcast on TVE2 on a Saturday at 23.00 while "Música Uno" is the TVE1 channel's musical slot on a Tuesday at 23.45. There is also "No Solo Música", and the return of the highly popular talent show "Operación Triunfo" on Tele5. "Los 40 Principales" and "Del 40 al 1" on Canal+ are the only music programmes on nationwide channels.

The various channels offered by Canal+ (40TV, Canal +, Canal Clásico and MTV España) are the only ones that regularly offer musical programmes every day.

"Los Conciertos de Radio 3" is the televised supplement of the concerts broadcast on Radio 3 daily between 19.30 and 20.00. Every night at 01.30, TVE2 diffuses the concert broadcast by RNE3 that day. These concerts are recorded live, often with the audience from a Madrid school.

"No Solo Música" broadcasts on Sundays at 12.30 and, as its name suggests, is not a programme only about music. It is aimed at an audience between 15 and 30 years of age.

"Los 40 Principales" and "Del 40 al 1" on Canal+ are the Spanish version of the Charts.

One of the most interesting programmes musically speaking is "Sputnik", which is broadcast every Thursday at 22.00 on TVCatalunya, and presented in Catalan.

MTV is available via two digital platforms, CanalSat and Via Digital. MTV has almost 2 million viewers.

Other cable channels specialised in music are 40TV, Sol Música, Canal Clásico and Flaix TV (in Catalan).

While access to the major television channels for non-chart artists is practically impossible, local televisions prove more accessible. According to French cultural attaché Laurent Coulon, "as new legislation comes into vigour with the arrival of digital television, this represents an important source of novel opportunities for those looking to promote lesser-known artists, with digital television channels in need of fresh programmes".

13.4 The Press

The Spanish do not have a reputation for indulging in reading. Nevertheless, the press is one of the country's most important media.

13.4.1 Newspapers

DAILY PAPERS' READERSHIP (thousands of readers) (without the Sports press)

National Market			
Daily Papers	Readership	Daily Papers	Readership
El País	2,186	El Correo Español	527
20 Minutos*	2,129	La Razón	456
Qué*	1,972		
Metro Directo*	1,972		
El Mundo	1,400		
El Periódico	874		
Abc	839		
La Vanguardia	735		
Voz de Galicia	590		

Source : Estudio General de Medios (EGM), March 2005 * Free daily newspapers

The space for culture within daily newspapers is sizeable with concert listings and reviews often covered. These are the various weekly cultural supplements that include interviews, reports and record reviews:

<u>Supplement</u>	<u>Newspaper</u>	<u>Distribution</u>
EP3	El País	Friday
La Luna de Metropoli	El Mundo	Friday
Tiempo Libre/Guía de Madrid	ABC	Friday
Viernes	El Periodico	Friday
Que Fem	La Vanguardia	Friday

These supplements must be taken into consideration as an important source of information aimed at those most likely to be interested in music.

13.4.2 Magazines

The most important publications on Pop-Rock are: Rock de Luxe, Go Mag, Mondo Sonoro, Rockzone and On The Rocks. They are all also open to other styles of music such as hip hop and techno.

For the Hip Hop world, essential magazines are Hip Hop Nation and Serie B.

In the World Music field, the main magazine is Batonga, which is founded by Mondo Sonoro.

Rolling Stone is now out with its 70th edition in Spain.

And for those interested in Electronic Music, Trax and Deejay are two of the style's main magazines.

One particularity in Spain to be highlighted is that of the free press. Free magazines (MondoSonoro, Batonga, Go Mag, etc.) have gained in strength and succeed in attracting more readers than those on sale. Financed by advertising alone, their distribution has improved and multinational companies now see them as essential to any press campaign. Some observers claim that the free press is the cause of the problems faced by the press 'for sale' because it takes away their sources of advertising (for example, the disappearance of the legendary Ajoblanco).

Another trend on the rise is the homosexual press, which broaches musical themes more and more regularly, in magazines such as Shangay Express and Punto H. The gay scene generally consumes more than the average group, and likes to be up to date with the latest trends. The huge success of singer Monica Naranjo has the gay scene to thank, although she is now reaching a wider audience.

But one trait of the Spanish press is their lack of interest in European music, concentrating almost exclusively on national and Anglo-Saxon groups. The only exceptions are specific reports on particular styles of music, such as fusion, raï or electronic music, in which it is difficult to avoid talking about foreign artists. The world music press is also informative.

13.4.3 Web magazines

Almost all television and radio programmes along with musical magazines have their own web sites on which they present their surfers with special offers and exclusive info. This is clearly the ideal media format for music.

French-based world music magazine Mondomix recently launched its Spanish-language version in collaboration with Argentina's Estación Tierra, while many fanzines across the musical spectrum only publish via the Internet.

The hip hop scene also communicates largely via the Internet, with web sites such as www.hhzpain.net, www.4x4hiphop.com and www.muevlohiphop.com.

13.4.4 Professional press

The main monthly professional publications in Spain are: Escenarios (with its supplement SIM, Semanario de la Industria Musical), Show Press and Clave Profesional. They are completely different to what is on offer in France or the UK for example; almost all of the information provided is about 'middle-of-the-road' music and lacks depth.

The advertisements placed in these journals are aimed at local state programmers, in other words they are generally for cover bands, best-selling singers or cabaret troupes, for the programmers of the *fiestas mayores*. These journals are not aimed at the musical industry (except for SIM), but at programmers. Rigour and conscientiousness are not exactly their leitmotiv.

13.4.5 Annual agendas

The annual agendas are: Agenda Clave and the Guia de Música.

Agenda Clave also deals with the musical industry in Latin America. The Guia de Música, just as Agenda Clave, is influenced by the commercial music industry and has little information about each company. For example, there is no venue listing, with capacity and working practices.

The Anuario de la Música del País is a summary of the main musical facts and figures of the year (a summary and description of the main events, statistics, anecdotes, etc.).

The Agenda de la Comunicación is published by the Ministry of Culture. All communication media in Spain are listed and a large number of important facts on each of them provided.

III. FINANCIAL ISSUES

1. Taxation

In Spain, the following taxes affect the music industry:

IVA: value-added tax (VAT); This is a tax created by the countries of the European Union and applies to all producers. IVA applicable to records is 16% of the final value. Currently there is a battle in Spain for the same rate to be applied to records as books, which is 7%, to be collected by each company and paid every three months to the State.

IS: Company tax; All companies pay an annual tax that represents 35% of the company's net income.

IRPF: 15% of each invoice is deducted from every individual, although if the invoice is for a large sum, this may increase at the end of the year to as much as 45%. Hence if large sums are being invoiced, it is preferable to work via a limited company.

2. Employing Foreign Artists

Foreign artists are exempt from paying VAT in Spain but must pay the IRPF tax which incurs a deduction from the amount invoiced at a rate of 15% and sometimes above.

IV. LAWS AND REGULATION

1. Authors' Rights

According to Spanish law, authors have the following rights: personal (or moral) rights and patrimonial rights.⁵⁹

1.1 Moral Rights

Moral (or personal) rights are those of a personal nature and cannot be waived. These rights are fundamental to matters of copyright, protecting the essence of the artistic work against 3rd parties. Even if the author so wishes, these rights cannot be ceded to a 3rd party according to Spanish law.⁶⁰ They concern the exploitation of an author's work and include:

- Right to public disclosure: An author has the right to prevent the revealing or commercialising of one of his/her works. The author has the legal right to reject any work that does not fulfil all conditions for its commercialisation. Authors equally have the legal right to commercialise their works as they see fit, without any transformation by the commercialising party. The author has the right to decide whether such disclosure be carried out in his/her name or under an alias or pseudonym;
- Right to respect the author's quality;
- Right to respect the integrity of the work and prevent any type of modification;
- Right to modify the work while respecting the rights acquired by third parties;
- Right to withdrawal and revoke;
- Right of access to the original (in the case of musical works, the Master).

Duration of moral rights: Moral rights remain in force throughout the author's lifetime. At the time of his/her demise, only the rights to public disclosure, the right to respect the author's quality and the right to the integrity of the work may be exercised by the author's heirs. The remaining moral rights are nullified by the author's demise.

1.2 Patrimonial Rights

Unlike moral rights, patrimonial rights can be waived. They include the following:

- Right to reproduction: to physically fix the work in a medium that allows for its communication and the making of copies. For example, the recording of a musical work on tape for copy-making;
- Right to distribution: To make publicly available the original or copies of the original for sale, renting or lending. This can happen, for example, when the record company distributes copies to a record shop for sale;

⁵⁹ Copyright Law (Real Decreto Legislativo 1/1996, de 12 de abril)

⁶⁰ Copyright Law (Real Decreto Legislativo 1/1996, de 12 de abril)

- Right to public diffusion: In which numerous people have access to the work without previous distribution of copies. In other words, the work is seen, or heard without having the CD, for example, when the song is heard on the radio;
- Right to transformation: Transformation includes translation, adaptation and any other modification which gives rise to a different work. The original is modified, but always within certain limits. For musical works, this would be meringue or hip hop versions of a pop song.

Duration of patrimonial rights: Patrimonial rights last throughout the author's lifetime and for 70 years after his/her death. Following this period, they are nullified and the work becomes public property. As for pseudonym or anonymous works, the rights last for 70 years following their lawful disclosure. For collaboration works, the rights last throughout the lifetimes of the co-authors and 70 years after the death of the last surviving author. And for collective works, the exploitation rights last for 70 years after the lawful disclosure of the work.

2. Performers' Rights

According to Spanish law, performers have the following rights:

The performance given by performers of a musical work is a personal creation, in addition to the work being represented. Yet performers are not considered to be authors. Nevertheless when an artist performs a song, s/he gives it a very personal hallmark, thereby acting in a similar vein to the literary or artistic creator which is why the Law provides performers with legal protection.⁶¹

According to Article 112, the rights of exploitation of performing artists and musicians last for 50 years, counting from 1 January of the year following that of the performance. At the end of the 50 years, the work becomes public property, and anyone can then reproduce or distribute it without prior permission from the performers, while respecting the work's integrity and the rights of record companies that may still be in effect.⁶²

Performers, artists and musicians are accorded the following rights by the Copyright Law:

- Right of material fixation: This right corresponds to the performing artist's and musician's exclusive right to authorise the recording of their performances; the authorisation should be in writing;
- Right of public diffusion;
- Right of distribution (performing artists and musicians have the exclusive right to authorise the distribution of the recordings of their performances, a right that may be transferred, ceded or the subject of the concession of contractual licensing).⁶³

⁶¹ Copyright Law (Real Decreto Legislativo 1/1996, de 12 de abril)

⁶² Copyright Law (Real Decreto Legislativo 1/1996, de 12 de abril)

⁶³ Copyright Law (Real Decreto Legislativo 1/1996, de 12 de abril)

If the performance or public execution takes place in compliance with a contract of employment or provision of services, excepting stipulation to the contrary, it is taken that the impresario has acquired the exclusive rights to authorise reproduction and public diffusion. The rights to remuneration remain another subject.

The performing artists and musicians that participate collectively in the same performance, such as the members of a musical group, choir, orchestra, ballet or theatre company, must designate a representative from amongst themselves for the granting of authorisations to be given in writing.

3. Publishers' Obligations

It must be stressed that these obligations are a minimal agreement; after which, with new forms of exploitation and the passing of time, given the uses of the market, they may be increased.

In any case, the publisher or body to which copyrights are ceded, has the following obligations:

- To publish or reproduce the work in the agreed format. This means that the publisher cannot modify the sound, performance or graphic design of the work (photos, sleeve, etc.) that the author has not agreed to and must include the author's name in each copy (CDs, etc.);
- To put the work into circulation: This cannot take longer than two years after the work has been delivered by the author, excepting symphonic works and musicals for which the maximum period is five years. It is advisable to demand a clause in contracts in which the maximum period for the company to commercialise the work is stipulated (for example six months after the Master is delivered);
- To ensure continuous exploitation: This obligation implies that the publisher must deploy the necessary commercial actions in order to ensure the effective sale of the work. These actions are to be continuous and this obligation also means that the publisher cannot end the diffusion or commercialisation of the work on a whim;
- To return the original once the printing operations are over and the work has been placed into circulation;
- To render accounts and sales figures: This obligation must be carried out by the publisher at least once a year, unless the contract stipulates a shorter time-span (generally it is agreed that this obligation be carried out every six months);
- To undertake the correct destruction of the work: This takes place in the case of 'short-life works'. A typical example is that of summer compilations. Although it is the publisher's obligation to ensure the continuing exploitation of the work, the law provides for the edition to be sold in clearance sales or the copies destroyed, if the edition is not selling satisfactorily. Nevertheless, certain steps must be followed as laid down by the law;
- To re-publish the work: When the first edition has run out, the publisher must bring out a second edition, if not, the author can terminate the

contract as the continuous commercialisation of his/her work is not being carried out.

4. Authors' Obligations

These obligations apply to any creator that cedes the rights to his/her creation.

- To deliver the work in due time and form: The author must deliver the work in due form for its reproduction by the publisher, and within the time limit agreed on in the contract;
- To claim responsibility;
- To correct the printing proofs.⁶⁴

5. Anti-Piracy Laws

One of the major factors influencing the music industry is piracy. Large-scale organised 'top manta' piracy (pirate CDs sold in the street) and private illegal Internet downloading are the two main branches of this black market sector. They are seen as responsible for the majority of reduction in record sales over the past few years and are therefore targeted by new legislation.

Despite the clear difficulty in combating this practice, figures published in the SGAE report on Musical Piracy in Spain show that the overall rate of piracy for the 3rd quarter of 2004 had slightly decreased from 22,8% to under 20%.⁶⁵ This is a consequence of measures such as the Campaign for the Defence of Intellectual Property headed by SGAE.

But the general consensus is that the fight against music piracy will be a long and difficult one. According to the Delfos survey carried out by Fundación Autor on the Spanish musical industry, 41% of the experts consulted believed that 'top manta' piracy would continue at the same rate in 2005, while 22% thought it would soon decrease.⁶⁶

In 2004, 3.059 people were detained by the police for phonographic and audio-visual piracy-related crimes. Almost 4 million pirate CDs were seized with 41% more police interventions in 2004 than in 2003.⁶⁷

"The new government formed in May 2004 is the first to commit itself to the fight against piracy and the creation of 'top manta'". This was declared by Carmen Calvo, the Minister for Culture, on 30 December 2004 with her plan to combat piracy, aiming to reduce all activities violating authors' rights and copyright. This plan includes:

- the setting up of an Inter-administrative Commission whose function will be the defence of rights violated by piracy

⁶⁴ Copyright Law (Real Decreto Legislativo 1/1996, 12 April)

⁶⁵ Informe SGAE sobre la Piratería Musical en España

⁶⁶ Anuario SGAE de las Artes Escénicas, Musicales y Audiovisuales 2005

⁶⁷ El Periódico, 7 April 2005

- social awareness campaigns
- the revision of the Spanish judicial law
- in-house training for police officers and judges⁶⁸

In April 2004 a **European Union Anti-Piracy Directive** was approved aiming to harmonise national legislation in order to guarantee a high level of standardisation and equal protection of copyrights within the European market. It was also set up to facilitate the exchange of information between national authorities in the fight against piracy.

Measures that are welcomed across the board, but many warn against complacency and recall the need for action to be taken on all fronts. As Mario Pacheco, the UFI President says, “It is not just a question of punishing the crime but the new market needs to be put into order and regulated. What you can see in the street is a scandal, but so are broadband operators’ advertisements which are practically an incitement to piracy”.

The Internet is clearly one of the leading stages for phonographic piracy, with nearly all 270 million music downloads in 2004 being illegal.⁶⁹ This is not surprising considering that 31% of Spanish households are equipped with a connection to the Web.⁷⁰

On a more positive note, the 2005 edition of the Valencia-based Campus Party, which is a marathon non-stop gathering of typically young and highly technical Internet *aficionados*, was the venue for the first Debate Forum on Rights in a Digital World. It was there that representatives from SGAE, PROMUSICAE and ACAM (the Association of Musical Composers and Authors) took part alongside the *Campus* participants.

6. Working Regulations

The legal status of music professionals is characterised by the division of the sector into various legal positions: labour relations of a special character, self-employed workers and civil servants.

The working conditions of the artists/musicians in the popular music arena are subject to regulation, almost exclusively, by the artists’ work contract and the 1435/85 Royal Decree that covers it. Unlike the classical music sector in which collective bargaining is frequent, the popular music situation sees less of this. The employment contracts for public performance artists, under which music professionals fall, are regulated by the aforementioned Royal Decree and form part of “labour relations of a special character”.

For hiring purposes, the promoter is the show organiser, independent of the fact that it is a legal body which has ‘show organisation’ within its social objective.

⁶⁸ Ministry of Culture

⁶⁹ Memoria Anual SGAE 2004

⁷⁰ Informe Delfos February 2005

They can also be promoters for these purposes without their own legal entity, as a show commission.

The hiring of artists by public administration services falls under private law, and therefore the applicable regulation shall not be administrative; rather, it shall be civil or a mercantile regulation of services contract and special labour regulation of public performance artists.

The salary shall be agreed under collective bargaining (should it exist) or under an individual employment contract, in line with minimum wage regulation.

The range of application of the Social Security regimen was extended by the 2621/1986 Royal Decree for public performance artists with special clauses (accumulated days upon hiring and advancement of retirement age).

7. Recording Contracts

7.1 Negotiation

To negotiate a recording contract in Spain, the following steps must be taken:

- register the works, with SGAE or the national collecting society or Copyright register
- register the band (name of the group or artist name)
- register domain names (ex: .com, .net, .es)
- terminate former contracts
- maximise the number of offers

Various guides exist in which extensive information on national companies can be found, such as the Guia de la Música (www.guiademusica.com) that can be useful when looking to maximise potential offers. When prospecting for recording contracts, the greater the variety of material on the group presented the better.

A recording contract is that in which the exploitation rights of recordings are ceded (and not the songs themselves).

According to Spanish law, recording contracts must be in writing. A verbal contract is not necessarily null and void but it does give the artist the legal authority to terminate the contract whenever desired.⁷¹

Recording contracts are null and void if:

- they are not in writing, in which case the cession of rights is exclusive
- the maximum and minimum number of copies in the edition, or each of those agreed upon, is not specified (more literary than musical)
- the author's remuneration is not specified

⁷¹ Copyright Law (Real Decreto Legislativo 1/1996, de 12 de abril)

7.2 Promotion

Within a recording contract, the greater the cession, the greater the promotion:

- Promotion, the core of any negotiation: The promotion of a musical work is the basis or fundamental core of any negotiation with interested companies. A contract is well negotiated if it includes a promotional/marketing plan or a specifically stated budget for such aims, according to common agreement between parties. Broadly speaking, the promotion should include: specialised press advertisements, promotional performances and presentation concerts (the hiring of venues etc), videos, posters, radio slots, etc.
- Contract duration: There are three types of contract, according to their duration or viewpoint: work contracts, temporary contracts, and mixed contracts (work and duration).

The usual time span of contracts in Spain breaks down as the following:

To record one record in 18 months, two records in three years and three records in five years.

Signing a contract with a non-manageable time span can lead to a serious breach of contract, given the obligations of the author as stipulated by the Copyright law above mentioned.⁷²

- Duration of the cession of recording exploitation rights: In general, when recording rights are ceded, this cession is agreed upon for the maximum duration according to Spanish law, which is 50 years from the moment of publication.⁷³
- Exclusivity

7.3 Royalties

It is compulsory for the royalty to be proportional to sales. The royalty must be proportional to sales and increase at the same rate. It is never a fixed amount, however high. If any fixed amount is stipulated in a contract, this is an advance on royalties, but never a final payment for the cession of rights.

As a general rule, the main factor that may cause significant variations in the amount of the royalty is if the artist has paid for the costs and production, or organisation of the recording (i.e. If the artist is the phonographic producer). In general, the royalty may vary between 12% and 18% of the record distribution price. Hence, if the artist presents the company with a finished product that s/he has paid for, not only does this imply a different royalty but also a new type of contract; one of co-production (two companies with the same aim) in which the

⁷² Copyright Law (Real Decreto Legislativo 1/1996, de 12 de abril)

⁷³ Copyright Law (Real Decreto Legislativo 1/1996, de 12 de abril)

royalty decreases in proportion with the increase in the amount invested by the record company. In cases in which the record company has paid for the aforementioned costs, the royalty varies between 7% and 12%.

Another important factor is the number of sales of the artist's previous records. An artist that has sold a great deal of records can negotiate a higher royalty than usual.

The law (Art.47LPI) covers cases in which the record company's profits are disproportionate, providing for a revision of the contract. In the case in which the record company is not prepared to review it, a judge can be asked to revise the contract and fix a just remuneration for both parties.

Usual reductions in royalties include television advertising; sales to certain clients or reduced-price sales (ex: sales to the *Círculo de lectores*); and promotion copies for the artist.

There are cases in which it is necessary to agree on a high royalty percentage. The first case is Electronic music composers and performers in general. When calculating royalties, there are some cases in which it is very important to negotiate high royalty percentages. One of these cases is that of performers for whom the only direct gain from the exploitation of the work's recording is their corresponding royalty, which is not the work's author. Another typical case is that of electronic music producers, in that they do not usually give performances, hence the royalty is their only direct income (there are of course many exceptions).

Another case deals with the advances of royalties. For many artists, the only factor that they value in their contract is the insertion of a hefty advance. This should never be given priority over good contractual promotion, although a sizeable advance also determines the company's attitude.

7.4 Merchandising

Another important factor to negotiate is the possible cession of rights to commercialise clothes or any other type of product in the artist's name. In the musical field, the sale of T-shirts and various products with the name or image of the artist results in considerable profits when correctly exploited. There are bands that make more money from merchandising than from record sales. In Spain there is not an excessive amount of merchandising piracy, as is the case for records.

The main merchandising contract's clauses are:

- **Exclusivity or non-exclusivity**
- **The territorial sphere:** it is necessary to establish if the merchandising includes the Spanish territory or if the brand is licensed for the world over. The territorial nature of the brand licence implies that the company cannot manufacture the products stipulated in the contract outside the territory specified therein; it must be made clear that they may circulate. This means that if Spain is conceded, they may only manufacture in Spain but may sell

in Germany by virtue of a brand principle known as “exhaustion of brand rights”

- **Usual percentages:** As ever, the percentage is not set, but this tends to be between 20% and 50% of the net profits depending on the band’s success. The greater the band’s success, the more sales and the lower the cut for the exploiting company
- **Master ownership**
- **Cession of internet domains to the company:** temporary or total
- **Selection of producer, studio, graphic designer, photographer**
- **Audiovisual rights:** This is another negotiable factor. These are the rights to material fixing of the musical works in an audiovisual format (sound and image). These should not be ceded gratuitously as the commercialisation of videos and DVDs can represent a sizeable income for the artist. These rights should be negotiated within a contract, which is also true for a recording
- **Cession of artistic representation or management rights:** Many Spanish record companies negotiate with artists concerning the cession and control of artistic representation rights, which is to deter potential conflicts of this nature. Their aim is to eradicate the inconvenient figure of the external manager and to recuperate part of their investment each time the artist goes on stage
- **Usual economic conditions of this type of contract:** The manager tends to get all or at least a portion of the gross sum received by the band for its professional and artistic activities. The cut is determined by common accord in the contract but usually tends to be around 20% of all of the artist’s gross income. This form of payment is classic within the Spanish sector, and decreases according to the band’s success. Another very common formula is to give the manager a cut as if s/he is another band member. There are a number of exceptions, particularly the case of the ‘personal manager’ for whom the cut can vary from 20% to 50%. The personal manager takes care of absolutely all of the artist’s business, from the children’s nursery to detailed agenda-keeping; in fact any part of the artist’s professional or personal life that s/he does not wish to look after. Booking agents tend to take a 10% commission on gross income
- **Cession of rights to image:** The ‘rights to image’ are those that do not allow the material fixing, reproduction or distribution of the person’s image without prior consent. The commercial appropriation of the image is without doubt the most serious intrusion of this right. The right to image is covered by the Spanish Law 1/82, under which Article 7.5 considers intrusion “*the taking of, reproduction and publication of photographs, film or any other process, of a person’s image in moments or places of their private lives or outside these*”

Nevertheless, there are a series of limitations according to Spanish law:

- the taking of, reproduction and publication by any means, when it concerns persons holding public office or famous or public professions and the image is taken during a public act or in public spaces;
- the use of the caricature is for a social purpose;
- the graphic information is about a public event or occasion and the image and a certain person's appearance is clearly incidental.

Another aspect of the right to image is the patrimonial aspect or the right of publicity that can be defined as the right to the exclusive exploitation of the characteristic traits of a personality for advertising or commercial ends.

Hence, whosoever wishes to use the private, family or intimate image of a person must obtain prior authorisation from the person concerned; an authorisation that may be revoked at any time with damages for such a withdrawal that is required.

- **Substitution and representation of the parties:** authorisation / without authorisation;
- **Jurisdiction:** when ceding rights to a foreign company. The clause corresponding to the jurisdiction is necessary in any contract, for a recording or not. It exists for instances of conflict between parties, in which judges and courts will refer to its legality. In general, conflicts are taken to the respective court of the place in which the record company has its headquarters. This is a point to be remembered when signing with a foreign company.

8. Publishing Contracts

In a publishing contract (i.e. with the publisher), the author cedes the right to reproduce, distribute and publicly diffuse his/her works. This is done in exchange for monetary compensation and does not include recordings, which are subject to a recording contract as mentioned above.

The main differences between a recording and a publishing contract are as follows:

- A **publishing contract** is the cession of the rights of exploitation of songs or musical works (both lyrics and music);
- A **recording contract** is the cession of the rights of exploitation of a recording, made on a certain day in a certain place. It includes the material recording of the song, not the song itself.

The publisher carries out these operations at his/her own cost and risk, according to the conditions agreed upon and subject to the law. In other words, the publishing contract is an official contract, with the condition that it is in writing or risk being null and void. For a work to be subject to a publishing contract, the work must already exist because contracts for future works are not accepted, although assignment contracts for future works are accepted. The rights of distribution, reproduction, public diffusion and the right of transformation are all rights which

may be ceded. It may be understood that according to this contract, the right of transformation may be ceded, within the limits of the author's moral rights as described above.

The musical publisher has the obligation to ensure maximum commercial exploitation of the musical work of whatever form; his/her aims and obligations are the process of looking for the means to do so and not the accomplishment of the task. This implies that s/he is not personally obliged to undertake this task. It may be carried out by a third party through which the musical works are published or the copies distributed in the shops. The publisher's role is to look for ways to exploit the work.

Publishing contracts in Spain, contrary to recording contracts, tend to resemble one another. Most publishers base their contracts on a typical contract that is difficult to read and understand. It closely resembles a contract for literary works versus musical works, in which the concept of the Musical Publisher has been introduced. There are no specific regulations concerning such a role within the current Copyright Law, and as such, it tends to assume obligations that are not within its field; none of which is barred by any specific regulation.

8.1 Negotiation

Exclusivity. Exclusivity refers to an author specifically ceding his/her rights to a publisher and therefore giving up the right to cede them to another publisher. Publishing contracts are generally exclusive;

Cession duration. It is advisable that the cession not exceed 5 years, although this time period depends upon how much the author trusts the publisher. Trust is the basis of the contract. It is advisable to agree upon trial periods;

The remuneration to be received by the author for his/her rights and in what form this remuneration will be received. In this case it is usual to agree upon part of the profits of the exploitation, generally 50% for the publisher and 50% for the author, although it must be stressed that this is the legal maximum. The cuts must range between 20% and 40%, according to the work and money the publisher plans to invest;

Territorial sphere: The territory covered by the contract should be specified. Generally the territorial sphere is world-wide;

Every right which is ceded must be specified and their corresponding cuts;

If an arranger is hired it must be kept in mind that his/her cut is a maximum of 16,66% of the overall monetary agreement of the contract;

In writing: Publishing contracts must be in writing. If this is not the case, it does not mean that the contract is null and void but gives the artist the legal authority to terminate the contract when desired.

Publishing contracts are null and void if:

- they are not in writing, in which case the cession of rights is exclusive;
- if the maximum and minimum number of copies in the edition, or each of those agreed upon, is not specified (more literary than musical);
- if the author's remuneration is not specified.

8.2 Duration⁷⁴

The duration of these contracts tends to figure in one of the clauses in which the parties are determined. A typical example of such a clause is the following: *“The duration of the present contract is the time for protection that current laws concede to authors, their successors and beneficiaries”*.

As stated above, a specific period of time should be agreed upon. It is advisable that this be for a renewable period of 5 years, while the duration of the typical clause above implies that the exploitation of the publisher shall last for the author's lifetime and for 70 years after the author's demise. Once this time period expires, the works become public property.

8.3 Cession of Publishing Rights

Generally in Spain, recording contracts include the cession of publishing rights for songs, which is highly inadvisable. This comes from record companies' desire to increase their potential sources of income, to reduce manufacturing and promotion costs, to receive profits from the public diffusion of their recordings and to have greater control over recordings and the content therein.

This has come about as a result of the sector's crisis, in which piracy and other factors have reduced sales and made it necessary to find other sources of income, leading to the cession of rights to representation or management or publishing rights; all of which directly affects artists. Situations in which record companies carry out other functions, such as that of managers or publishers, detract from the latter.

It is far better when each block of the 'pyramid of success' (artist-record company-publisher-manager) is distinct, as each block has an investment to make and the chances of success are multiplied.

⁷⁴ Copyright Law (Real Decreto Legislativo 1/1996, de 12 de abril)

CREDITS AND ACKNOWLEDGMENTS

- Fundación Autor/SGAE
- Julie Mérian for all her diligent work on the directory
- Laurent Coulon, Cultural Attaché at the French Embassy for his time and insights
- Mario Pacheco (Nuevos Medios and UFI) for his speedy and enlightening response
- Sébastien Prieto from the French Music Office in Spain
- Sr José Luis Sevillano at the AIE
- Wam Producciones

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