

Addis Ababa University

School of Graduate Studies

Faculty of Journalism and Communication



**Movie Piracy:
Communication Perspective**

Behailu Shiferaw

June, 2009

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Movie piracy: Communication perspectives

By

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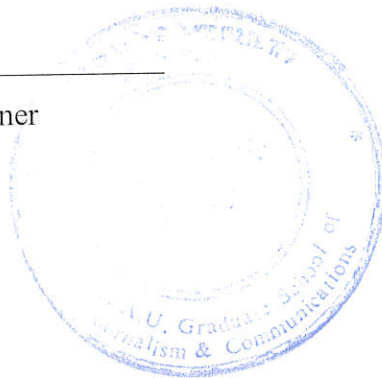
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Declaration

I, the undersigned, declare that this thesis is my original work and all the sources of materials used for the thesis have been duly acknowledged.

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Date of submission: June, 2009

Place of submission: Addis Ababa, Ethiopia



Contents

Chapter One

Introduction	1
1.1. Background of the study	1
1.2. Selection of topic	4
1.3. Statement of the problem	5
1.4. Objectives of the study	7
1.4.1. General objectives	7
1.4.2. Specific Objectives	7
1.5. Research Questions	7
1.6. Methods of the study	7
1.7. Significance of the study	8
1.8. Scope of the study	8
1.9. Limitation of the Study	9
1.10. Organization of the study	10

Chapter Two

2. Review of Related Literature	11
2.1. Definition of Movie Piracy	11
2.2. Academic Literature on Copyrights and Piracy	12
2.3. Legal System	13
2.3.1. Relevant Proclamations	13
2.3.1.1. CNRPP and EIPO	13
2.3.2 Problems Identified Pertaining to CNRPP	15
2.3.2.1 Problems observed in the court	16
2.3.2.2 Problems identified in the operations of the police	17
2.3.2.3 Problems identified in the government attorney	18



2.3.2.4 Problems identified among right holders	19
2.4 The Functional Perspective on Group Decision Making Theory	19
2.4.1 Analysis of the Problem	21
2.4.2 Goal Setting	21
2.4.3 Identification of alternatives	21
2.4.4 Evaluation of Positive and Negative Characteristics	22

Chapter Three

3 Methodology of the Research	25
3.1. Research Methods	25
3.1.1. Methods of Data Collection	26
3.1.2. Sampling methods	26
3.1.2.1. Typical-case sampling	26
3.1.2.2. Non-random Sampling	26
3.1.3. Major actors in the fight against piracy	27
3.1.3.1 Filmmakers	27
3.1.3.2 Public	27
3.1.3.3 EAPA	27
3.1.3.4 EIPO	27
3.1.3.5 Legal System	28
3.2.2. Primary Victims	28
3.2.2.1 Filmmakers	28
3.2.2.2 Economy	29
3.2.2.3 Industry	29
3.2.2.4. People	30
3.2.3. Primary Offenders	30
3.2.3.1 Pirates	30
3.2.3.2 Street Vendors	30

3.2.3.3 Buyers	30
3.2.3.4 Renters	31
3.2.3.5 Police	31

Chapter four

4. Presentation and Interpretation of Findings	32
4.1 Losses suffered	32
4.1.1. Financial Loss	32
4.1.2. Economic loss	33
4.2 Disadvantages of piracy on the industry	34
4.3 Situation of Movie Piracy: Case studies	36
4.3.1 <i>The 11th Hour</i>	38
4.3.2 <i>Love and Dance</i>	40
4.3.3. <i>Kezkaza Wolafen</i> and <i>Fikir Siferd</i>	41
4.3.4 <i>Sewuna Amelu</i>	41
4.4 Public and Street vendors on Movie Piracy	42
4.5 Legal System	44
4.5.1 Civil Remedies	45
4.5.2 Criminal Sanctions	46
4.6 Lack of Effective Communication among Stakeholders	50

Chapter 5

5.1 Conclusion	54
5.2 Recommendations	55
5.2.1 For Filmmakers	55
5.2.2 For the EIPO	57
5.2.3 For Ministry of Culture and Tourism	58
5.2.4 For courts and the Police	58

3.2.3.3 Buyers	30
3.2.3.4 Renters	31
3.2.3.5 Police	31

Chapter four

4. Presentation and Interpretation of Findings	32
4.1 Losses suffered	32
4.1.1. Financial Loss	32
4.1.2. Economic loss	33
4.2 Disadvantages of piracy on the industry	34
4.3 Situation of Movie Piracy: Case studies	36
4.3.1 <i>The 11th Hour</i>	38
4.3.2 <i>Love and Dance</i>	40
4.3.3. <i>Kezkaza Wolafen and Fikir Siferd</i>	41
4.3.4 <i>Sewuna Amelu</i>	41
4.4 Public and Street vendors on Movie Piracy	42
4.5 Legal System	44
4.5.1 Civil Remedies	45
4.5.2 Criminal Sanctions	46
4.6 Lack of Effective Communication among Stakeholders	50

Chapter 5

5.1 Conclusion	54
5.2 Recommendations	55
5.2.1 For Filmmakers	55
5.2.2 For the EIPO	57
5.2.3 For Ministry of Culture and Tourism	58
5.2.4 For courts and the Police	58

5.2.5 For all 58
5.3 Suggestions for farther research 59

Bibliography 61
Appendix I 63
Appendix II 66
Appendix III 71
Appendix IV 72

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Abstract

Lack of communication among the stakeholders in the cinema industry has slowed down development of the sector. Even though effects of lack of communication among stakeholders in the cinema industry are multifaceted, one of the major effects is expansion of movie piracy.

Movie piracy has crippled the otherwise booming cinema. The illegal practice has made the industry a very dreadful business to venture in. This has thus resulted in decreasing cash flow and hence less production quality.

The fact that the stakeholders do not work together towards alleviating the problem has added salt to the injury. Whenever an association starts bringing stakeholders together and discusses about it, members tend to be trapped by the inefficiencies of the previous discussions and drop out of the process.

The communication strategy they have assumed has not been designed to help them capitalize on their previous achievements. Instead it made them dwell on their previous inefficiencies and thus believe that the next discussion would only be a replication of the previous discussions instead of progressive extension of them. Furthermore, there has been a rolling trend of influence the bigger producers have on the rest of the members. Hirokawa and Gouran recognize this problem as *undue influence by powerful members*. These *historical* and *institutional* factors have affected the communication process which in turn made the industry's immunity weaker.

Functional Perspective on Group Decision Making Theory along with Historical and *Institutional functions* added by critics Stohl and Holmes provides an unrivalled solution for communications in such a state.

Acronyms

EFC	Ethiopian Film Corporation
EIPO	Ethiopian Intellectual Property Office
EAPA	Ethiopian Audio-Visual Producers Association
EFPA	Ethiopian Film Producers Association
AAU	Addis Ababa University
UNECA	United Nations Economic Commission for Africa
CNRPP	Copyrights and Neighboring Rights Protection Proclamation
CD	Compact Disc
VCD	Video CD
DVD	Digital Versatile Disc
MPAA	Motion Pictures Association of America
WIPO	World Intellectual Property Association
CNN	Cable News Network
ETB	Ethiopian Birr

Chapter One - Introduction

1.1. Background of the study

Many historians and film scholars agree that filmmaking as an art, industry, and agent of modernization grew rapidly in the Western hemisphere at the peak of Capitalism, developing a complex system of film production, exhibition, and distribution. Since its inception, the film medium has evolved to play multiple roles. While on the one hand, it has served as a profit-generating venture, it has on the other hand provided a culturally empowering tool in preserving historical as well as cultural values. The powerfulness of the medium can range from its ability to indoctrinate political ideas to the dissemination of information; from facilitating educational programs to being spectacles of entertainment; and from generating income to ensuring social transformation. Like other branches of fine art, film is one means of cultural expression.

Although film is globally recognized as a multi-functional tool, the medium in Ethiopia has not been utilized up to its full potential. When the development of film-making in Ethiopia is compared even with other African countries, one finds that the trend has until very recently been either so slow or next to non-existent. It is however not because Ethiopia was introduced to film very lately. As Prouty (1996) notes, Ethiopia is one of the earliest countries to be introduced to the technology and one of the more documented countries on the African continent. Prouty says that thousands of films have been made by several filmmakers over the past century (1906-1996) to document Ethiopia.

The filmmakers tended to be more foreign than local, including filmmakers from Australia, Canada, Germany, Italy, the Netherlands, the UK, and the USA, to mention but a few of them. As both Prouty and Paulos (1992) indicate,

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Ethiopians were first introduced to cinematic magic during the reign of Emperor Menelik II. The first film was screened to the royalty and the clergy some time in 1907. There is discrepancy as to when it exactly started however. While Prouty says it is in 1907, Paulos argues it is earlier. It is also noted that during Italy's five-year occupation of Ethiopia, 1936-1941, films were being screened as propaganda tools to promote the culture and power of Italy. Soon after the Italians left, however, nothing much had happened as far as films produced by Ethiopians for Ethiopians were concerned, except documentary newsreels produced by foreign filmmakers, mainly in the service of Emperor Haile Sillassie's "image building". Other than that, very few films can be cited in this light. Only two films which were produced in the 1960s can be cited as examples: *Hirut Abatwa Manew?* and *Guma*. At least, historical records show that only these two films were shown to the public as feature films. Even between 1974 and 1991, one can assume that the Derg regime must have understood the power of film when it allowed establishment of the Ethiopian Film Corporation (EFC). One of the founders of the corporation, Teferi Wossen, recalls that when established by Negarit Gazette Proclamation No. 306/1986, the corporation was given, among others, the duties to record history and to ensure the development of the profession in the country. This corporation was dissolved on 21st of January 1999 by the Federal Negarit Gazzetta proclamation number 151/1999.

Since 1991, the picture changed very significantly with the utilization and popularization of video technology. It is worthy of a separate research to discover whether the advent and domestication of (digital) video has contributed to the growth of filmmaking in the country.

Over a decade ago, aspiring video practitioners (mostly former artists Plays and Television drama) tried their hands in filmmaking. *Yesat Erat* by Temesgen Yalew

and *Senayit* by Manyazewal Endashaw are worth mentioning when one looks back to the 'genesis' of modern film productions. Ever since these earlier attempts, several producers like Serawit Multimedia Productions, Teddy Studio etc have emerged, hence the present day influx of films.

Ethiopian cinema has experienced a real revolution over the last couple of years. A number of films are being produced, premiered and screened in Addis Ababa and major regional towns. The encouraging turnout for earlier local films has contributed to a large number of film artists and business people venturing into the industry.

However, this motivation is being cut short due to an illegal act that is deepening its roots in the country's cinema industry, movie piracy. The pirates and VCD/DVD venders in Addis Ababa and other urban areas seem almost unstoppable. The legal and technological means employed to stop pirates from illegally duplicating the movies are not effective. Even if there are filmmakers' associations, the Police, the Ethiopian Audiovisual Producers' Association, and the government bodies claiming to be doing their job of protecting the copyrights, their effort is not concerted enough even to slow it down..

The movie piracy scene has now reached such a size that it has evolved a culture of its own. Filmmakers who have sold their houses and cars to produce movies have been left homeless. Above all negative attitude has developed among the business community about the prospect of filmmaking.

This is due mainly to lack of strong professional association of filmmakers and lack of proper communication among the existing ones.

1.2. Selection of topic

Addis Ababa University (AAU) held a two days workshop entitled Ethiopian Film Initiative in collaboration with the International Emerging Talent Festival, Indian Embassy, USA Embassy and the UNECA. On the workshop that was held from 23 to 24 June 2008, several film producers and directors in Ethiopia discussed their prospects and challenges.

Movie piracy was mentioned as one of the major problems for the flourishing filmmakers of Ethiopia. Discussing the contributing factors, they attributed this spread of illegality to the permissive nature of the legal structure and lack of cooperation among the filmmakers themselves.

One of the participants who represented the Eastern Indian Filmmakers Association, Mr. Arijit Dutta, shared his country's experience regarding movie piracy. He said that in India over 60 percent of the revenue that should be earned from the cinema industry is lost due to piracy. The Ethiopian fellows echoed the gravity of the problem in Ethiopia. However, none of them put a figure on the extent of the disadvantages of piracy in Ethiopia.

Discussions held with the people in the industry and Ethiopian Intellectual Property Office (EIPO) confirmed that there has not been any research conducted to specifically study the situation of movie piracy.

That inspired research of the issue in depth and provide interested people with relevant and timely information as to what went wrong and what should be done to overcome it.

1.3. Statement of the problem

Piracy costs the industry in particular and the country at large in terms of money, creativity and production quality. As Willis (1993) points out, the issue of copyrights' violation worries most writers more than the fear of having fewer turnouts for their movies.

Today hardly any producer ventures into publishing movies in VCD/DVD. The last time a feature length film was released in VCD/DVD was in September 2008. This, the filmmakers argued, is because of the fact that the producers will only have a one-day market after which the counterfeited copies will flood the market for a much less price. That in turn has discouraged investors who would have invested their money to produce high-quality movies and earn a reasonable profit.

Hailay Tadesse, Executive Manager of Ethiopian Audiovisual Producers' Association (EAPA), says that when the association was established in August 1997, there were 250 member producers, publishers, studios and other people in the audiovisual industry. However, 101 of them could not stand the financial and moral losses caused by piracy and signed out of both the industry and the association. Lack of cash flow in the industry and weakening of competition clearly affect the quality of movies produced.

Protection of copyrights benefits the culture, the industry, the government and the owners of the creative works.

The protection of copyright has long helped writers, artists, and filmmakers control where, when and how their creative works are used. Under normal legal conditions, the original creators can sue people who

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Protection of copyrights benefits the culture, the industry, the government and the owners of the creative works.

The protection of copyright has long helped writers, artists, and filmmakers control where, when and how their creative works are used. Under normal legal conditions, the original creators can sue people who

imitate or adapt their works commercially without permission. In most cases the rule is as follows, if you make money off someone else's creative material, that money belongs to the person who owns the copyright to the material unless the person [who adapts or copies] has obtained the owner's prior approval.

Campbell (546, 2002)

Of course when a certain intellectual property comes to the public domain because of different reasons, it can be used by anybody without having to get consent of the creator of the work. But then it is not protected by intellectual property laws (such as copyright, trademark or patent law) - which means it is free for anyone to use it without permission; hence the practice is no longer a piracy.

As a general rule, most works enter the public domain because of old age, because the copyright was not renewed, because they were published without copyright notice or because the owner has indicated a desire to give them to the public without copyright protection. For example in Ethiopia, the law says that audiovisual works shall be protected for fifty years beginning from the date of making of the work or communication of the work to the public, whichever date is the latest.

Filmmakers do not seem to be cognizant of the legal protections they have been given by the law. The pirates do not seem to be functioning in a country that has declared the rule of law in general and the intellectual property protection proclamation in particular. In short, the issue of movie piracy has not been accorded the urgency it deserves.

1.4. Objectives of the study

1.4.1. General objectives

Though the form and intensity varies, the problem of the global movie piracy is increasingly being observed in Ethiopia. Having assessed the legal framework binding the industry and copyright related issues, this paper aims to look into the situation of movie piracy in Ethiopia. It then attempts to come up with findings as to why, with all the legal framework in place, it could not be combated thus far.

1.4.2. Specific Objectives

In the final analysis, this study tries to review and prepare literature for further study regarding movie piracy, to look into the major factors contributing to the current situation of movie piracy from the communications point of view and to put forward some recommendations as how the illegal trend could be slowed down in short-term and combated in long-term.

1.5. Research Questions

The research would try to answer the following questions:

- Does movie piracy exist in Ethiopia?
- Is it a problem at this level?
- What does the legal framework look like and how does it function?
- What are the stakeholders doing to fight movie piracy?
- Why have the efforts exerted thus far been unsuccessful?
- What should be done to combat the illegal practice from the communications point of view?

1.6. Methods of the study

The research was conducted using qualitative research methods. However, in

areas where quantification of the damage was required, quantitative data collection and analysis methods are used. A more detailed account of the methodology is provided in chapter three.

1.7. Significance of the study

The findings of the paper could be used as input for ongoing discussions to stop movie piracy. The government and other interested bodies can use the findings important to take relevant actions on the problem.

1.8. Scope of the study

The scope of the study will be confined to the movies that are legally protected by the Copyrights and Neighboring Rights Proclamation (CNRPP) No. 410/2004 of Ethiopia. These movies are:

- Works of authors who are nationals of, or have their principal residence in Ethiopia;
- Works first published in Ethiopia and, works first published abroad and also published in Ethiopia within 30 days, irrespective of the nationality or residence of their authors;
- Audiovisual works, the producer of which has his headquarters or principal residence in Ethiopia;

Please note that the provisions of this proclamation shall also apply to works that are eligible for protection in Ethiopia by virtue of and in accordance with any international convention or other international agreement to which Ethiopia is a party. However, only the ones mentioned in the list A-C are studied in this research.

Study

per cost and revenue registration on the side of the does not provide a detailed quantification of the damage piracy at a national level. Only those who were able to a will be discussed to show the gravity of the situation.

The study

apters. The first chapter consists of a brief discussion on how being in Ethiopia and why the researcher picked up this e chapter then goes on to give a brief explanation of the e and limitations of the study.

arts with definition of movie piracy so that readers of the ear idea of what the research is about. It then reviews regarding film and copyrights. The literature review revises contextual literature of copyrights and movie piracy in films and movie piracy in Ethiopia in particular. It will then gal framework under which the industry functions. In an irthwhile reference material for forthcoming researchers, uld present a detailed analysis of problems identified in orcement. Likewise, efficacy of the institutions established on of these copyright and neighboring rights will be

The fourth chapter is dedicated to the presentation and interpretation of findings. Analysis of the study and contextual discussions on two selected movie piracy cases will also be discussed in this chapter. The chapter also discusses how the selected communication theory will help the stakeholders come to agreeable and constructive terms.

Conclusion and recommendations constitute the last chapter. Reference materials and other important notes are also included in the paper as appendixes.

Chapter Two

2. Review of Related Literature

2.1. Definition of Movie Piracy

Movie piracy is the activity of illegally obtaining and trading copies of movies, typically over the internet. Piracy could also be done by duplicating somebody else's work on DVD/VCDs or tapes.

The Motion Picture Association of America (MPAA) defines pirates and piracy in strong language.

Movie pirates are thieves, plain and simple. Piracy is the unauthorized taking, copying or use of copyrighted materials without permission. It is no different from stealing another person's shoes or stereo, except sometimes it can be a lot more damaging. Piracy is committed in many ways, including Internet piracy, copying and distribution of discs, broadcasts, and even public performances.

<http://www.mpa.org/piracy.asp>

2.2. Academic Literature on Copyrights and Piracy

To discuss the core of movie piracy, it is always helpful to understand copyright. Copyright law and technological progress have always been linked.

It is estimated that before Gutenberg's printing press the number of books in all of Europe numbered in the thousands, but within 50 years, that number approached ten million. Such explosive growth and its accompanying

ities created an immediate need for protection of the rights
publisher from the earliest of literary pirates.

right law, the Statute of Anne, was enacted in England in
significant phenomenon in the history of copyright is the Berne
as finally revised on September 28, 1979.

ert (2005) defined it, 'Copyright is an area of the law that
property - property that a person cannot touch, hold, or
eping. Robertson (2002) says, as a law that protects the
has been reduced to material form from being used by
sion, copyright's essential purpose is to prevent plagiarism
of creative works.

s duplicated, used and/or marketed without the consent
a pirated copy, and the practice piracy.

spread this practice is vary, but one estimate from a CNN
ovie piracy stated that between 350,000 and 400,000
were downloaded per day.

act against their own bootleggers, especially because pirating remains a source of jobs.

Campbell (470, 2002)

A recent study by the Institute for Policy Innovation (IPI) reveals that movie piracy not only has a direct impact on the movie business, but it also affects the economy on a larger scale.

2. 3 Legal System

This section discusses Ethiopia's legal framework along with the problems identified in relation to its implementation. The literature part entitled "Problems Identified Pertaining to the Ethiopian Copyright and Neighboring Rights Protection Proclamation" is prepared by the Ethiopian Intellectual property Office in Amharic. It is translated and presented by the author.

2.3.1. Relevant Proclamations

2.3.1.1. Copyrights and Neighboring Rights Protection Proclamation and Ethiopian Intellectual Property Office establishment proclamations

The current regime deserves credit for the drafting and enactment of the Copyrights and Neighboring Rights Protection Proclamation (CNRPP) 410/2004 and establishment of the Ethiopian Intellectual Property Office (EIPO) Establishment Proclamation 320/2003 with the view to protecting the economic and moral rights of copyright owners.

The EIPO is a government body that is responsible to implement or follow up the implementation of national laws governing intellectual property as well as to

capacity to render efficient and effective services regarding
entering force on April 8, 2003, it was with the

provision of adequate legal protection for and exploitation
property in the country;

and disseminate technological information contained
and encourage its utilization;

and recommend policies and legislations on intellectual
government;

and understanding of intellectual property among
C.

to properly and the extent to which it cooperates with the
discussed in chapter four.

and to "protect works that make literary, artistic and similar
rights by recognizing neighboring rights by law" Negarit

proclamation concerning the protection of works mainly

pia; and

structure erected in Ethiopia and other artistic works
building or other structure located in Ethiopia.

s of this Proclamation shall also apply to works that are
in Ethiopia by virtue of and in accordance with any
n or other international agreement to which Ethiopia is a

ns, EIPO [establishment proclamation] and CNRPP, form
ction of intellectual property in Ethiopia.

ed Pertaining to Ethiopian Copyright and Neighboring mation

ailed as a milestone in the history of copyrights protection
while some stakeholders in the industry toasted over the
some chose to keep lobbying for its proper enforcement.

in the proclamation are good enough to show the
government to protect the economic and moral rights of
ners.

that make literary, artistic and similar creative works productive by recognizing neighboring rights by law; the proclamation protecting copyright and neighboring rights was enacted on 19th July, 2004 by the House of Peoples' Representatives."

(Negarit Gazette Proclamation No. 410/2004

er, the law has not yet been implemented to its full potential. The court
hter sentences that are not in line with what the proclamation sets. The
elf does not believe the law has been enforced to the required level.
er, the office could not do much more about it than identifying the major
s hindering proper implementation of the law. The document entitled
s Identified Pertaining to the Enforcement of the CNRPP, produced by
ce in January 2008, underlines proper enforcement of the proclamation
e cooperation of all.

at these problems helps to better understand why the existing legal
ould not stop or lessen movie piracy in the country. Furthermore, the
on provided below will also be used as a stepping-stone for researchers
ld like to research the legal aspect of copyrights. The Amharic version is
d into English by the author.

blems observed in the court:

k of understanding about the special features of intellectual properties
e major problem identified in the court. The EAPA pointed out, for
mple, that the judges asked the witnesses or let the defendants ask
esses to explain about the contents of CDs which contained hundreds
ongs in MP3 format or DVDs which could contain a series of

counterfeited music video or movies. They also pointed out that when police captured suspects in the owners of rights' absence, the jury requires the owners of rights to explain the amount of pirated copies captured by the police and the time and place the copies were captured.

lack of consistency regarding interpretation of the law. The claimants complain that the judges do not stick to book of law while passing sentence. Judges give a much lighter sentence than that which is stipulated by the law. Suspects are required to bring in bail that is proportional neither to the economic gains they enjoyed nor to the damage they have caused to the owners of the rights. The EAPA pointed out examples where suspects were released leaving their ID as bail and in some instances they were asked to reserve 300 birr as collateral.

lengthy trial process before finally giving a minimal penalty or even proving the suspects innocent is also a problem observed in the court.

Some cases have been tried by lower level courts even if the proclamation stipulates that issues regarding the violation of copyrights and neighboring rights should be tried only at in the Federal High Court level.

Returning back of the pirated copies to the suspects is totally against the proclamation that requires immediate destruction of pirated copies.

Problems identified in the operations of the police:

A deep investigation to trace the source of the crime is repeatedly neglected in the Police. The EAPA pointed out that the police tends to dwell only on persons that were captured along the streets rather than tracking the distributors who operate behind the curtain. The vendors do not have the capacity to pay compensation were they proven guilty. Please note Article 4(4) of CNRPP stipulates that amount of compensation for moral

damage shall be determined based on the extent of the damage and not be less than ETB 100,000 (One hundred thousand ETB.)

- Failing to capture duplicating machines in the hands, houses or workshops of the suspects. And in the instances where they capture the machines, they do not prove that the machines are used for such purpose as anybody can have the machines for personal reasons.
- Lack of proper registration when the claimants appear before the police station to file charges against pirates
- Releasing suspects who are captured red-handed before they appear at either the police station or court
- Lack of concern from the sub-city police knowing that the piracy is taking place under their nose. Only Yeka and Addis Ketema Sub-cities have been mentioned to have exerted some efforts to pursue suspects.
- Lack of awareness among the police members about the gravity of the issue
- The police fail to bring witnesses and suspects before the court which results in the court dismissing the case

2.3.2.3 Problems identified in the government attorney:

- Sending back cases to the police for further investigation or ruling that there is no point in pursuing the case.
- Questioning witnesses in detail about the specific contents of the pirated copies unlike what the nature of intellectual property requires. A witness may not necessarily know the contents of the VCD/DVDs but can testify that he/she was there when the illegal copies were being sold.

2.3.2.4 Problems identified among right holders

- The filmmakers do not demand their rights to the required level. When the

EAPA charges files against pirates, the owners of the copyright do not go to the police or court to testify.

- Failing to put some peculiar identification label to the original copies. The technology is less accessible to the pirates. Some copies have been really hard to distinguish since both the original and the copies have the [ORIGINAL] label stuck on the CD.
- Failing to include details of all performers in the album pack, for example, dancers, musicians, actors and actresses, authors etc making the piracy a concern of only the author. Inclusion of all makes it an issue for them too since they want their names on as many copies as possible.
- Owners of copyrights do not show up at the court to explain the damage the counterfeiting has caused them hence making it difficult for the court to set the moral compensation. This is observed in this research process as well. Most filmmakers fail to put figure on the damage caused to them by piracy.
- The victims and the offenders sometimes kill off the case privately hence leaving all the effort exerted by the police and the attorney in vain. This gives a permissive gesture to the pirates that agreeing with the claimants is the worst that can happen to them. Sometimes they deal in such a way and work together to conceal documents and information from the police and the attorney so that the court would rule out the case.

2.4 The Functional Perspective on Group Decision Making Theory

A cynic once said that a camel is a horse put together by a committee. Although many people share this pessimistic view, the results of research in business, education and government show that problem-solving groups often come up with solutions that are superior to anything thought of by individual members.

This research theorizes that movie piracy is a problem in Ethiopia that is allowed to prevail due to lack of communication and cooperation among the various stakeholders.

These stakeholders, referred to as *major actors in the fight against piracy* in chapter three, are the 1) EIPO, 2) Filmmakers, 3) EAPA, 4) the Police, 5) the Government Attorney, 6) the Federal High Court and last but not least the 7) general public. The Customs and Revenue Authority, the duplicators and print houses etc could be cited as actors but not as significant as the above Seven.

These stakeholders have always been throwing stones individually at the pirates. But none of the stones seem to have hit the target as hard as the throwers wished. Piracy of movies has been increasing at an alarming rate. The efforts exerted by one of these major stakeholders are only duplicated by the other rather than being used as stepping stone for farther action. There is very little communication going on among them that they only shift the blame from themselves.

This status quo calls for the employment of Hirokawa and Gouran's Functional Perspective on Group Decision Making theory. This theory provides the best communication strategy for these stakeholders in reaching best solutions to their common problem, i.e. Movie Piracy.

Hirokawa and Gouran are cited in (Griffin, 2006)

Assuming that the group members care about the issue, are reasonably intelligent, and face a challenging task that calls for more facts, new ideas or

clear thinking, that group interaction has a positive effect on the final decision.

Griffin (250, 2006)

The theory developed by these two scholars regards talk as a social tool that helps groups reach better conclusions than they otherwise might.

The four functions, according to Hirokawa and Gouran, are (1) problem analysis, (2) goal setting, (3) identification of alternatives, and (4) evaluation of positive and negative characteristics.

2.4.1 Analysis of the Problem

Once it is agreed that movie piracy is a problem that requires improvement or change, then there is a need to analyze what went wrong. Hirokawa warns that any misunderstanding of the situation tends to be compounded when the members make their final decision. He also notes that a failure to recognize a potential threat when it really exists is costly. After people acknowledge a need to be addressed, they still must figure out the nature, extent, and probable cause(s) of the problem that confronts the group.

2.4.2 Goal Setting

Because group members need to be clear on what they are trying to accomplish, Hirokawa and Gouran regard discussion of goals and objectives as the second requisite function of decision making. A group needs to establish criteria by which to judge proposed solutions.

2.4.3 Identification of alternatives

In their original statement of the functional perspective, Hirokawa and Gouran

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rs need to be clear on what they are trying to

stressed the importance of lining up a number of alternative solutions from which group members could choose:

If no one calls attention to the need for generating as many alternatives as is realistically possible, then relatively few may be introduced, and the corresponding possibility of finding the acceptable answer will be low.

Ibid (251)

2.4.4 Evaluation of Positive and Negative Characteristics

After a group has identified alternative solutions, the participants must take care to test the relative merits of each option against the criteria they believe are important. This point by point comparison does not take place automatically. The two scholars warn that groups get sloppy and often need one member to remind the others to both the positive and negative features of each alternative.

Defendants of this perspective such as Ivan Steiner (Ibid, 255) however believe that this is a long way of dealing with problems claiming that actual group productivity decreases through process.

It follows that communication is best when it does not obstruct or distort the free flow of ideas. In fact, Hirokawa and Gouran believe that the functional perspective theory is not without challenges. They say that ignorance of the issue, faulty facts, misguided assumptions, sloppy evaluation of options, illogical inferences, disregard of procedural norms and undue influence by powerful members may distract the free flow of ideas and may make the process less

effective and lengthy. They so admit that people may go astray through talk, but they also believe that communication has the power to pull them back onto the goal-directed path.

Consistent with these convictions, they outline three types of communication in decision making groups:

1. Promotive- interaction that moves the group along the goal path by calling attention to one of the four requisite decision-making functions
2. Disruptive-interaction that diverts, retards, or frustrates group members' ability to achieve the four tasks functions.
3. Counteractive-interaction that members use to get the group back on track.

Hirokawa and Gouran have yet been subject to critiques from Stohl and Holmes (Ibid) who contend that most real-life groups have prior decision-making history and are embedded within a larger organization. They thus advocate adding a *historical function* that requires the group to talk about how past decisions were made. Furthermore, they also recommend an *institutional function* that is satisfied when members discuss the reality of power brokers and stakeholders who are not at the table but whose views clearly affect and are affected by the group decision.

It is visible that individual efforts and sometimes small group efforts have been exerted by stakeholders to overcome movie piracy. However, the stakeholders were not able to bring themselves together and fight the problem. And even in instances they did try to communicate and destroy it together, they always get

pulled back by the history of the previous associations and discussion that ended in vain. This is where the historical function of Stohl and Holmes comes to help.

The functional perspective theory along with the two functions recommended by critics Stohl and Holmes (Griffin, 2006) will form the theoretical framework for this study. The lack of group communication among the stakeholders in the Ethiopian copyright protection and the recommendations forwarded will thus be discussed in this light.

3. Chapter Three: Methodology of the Research

This section will explain the research method employed to conduct the research. The sampling method, the coding categories and why the coding techniques used are reliable are also integral parts of this chapter.

3.1. Research Methods

This study mainly uses qualitative method of research. However quantitative methods are also employed in very limited instances where there is a need to quantify the prevalence of a certain conviction among respondents. The use of triangulation strengthens a study by combining methods. This, Patton (2001) argues, can mean using several kinds of methods or data, including using both quantitative and qualitative approaches.

As Strauss and Corbin (1990) indicate, qualitative research method will be used in part of the study which leads to findings not arrived at by means of statistical procedures or other means of quantification.

Quantitative research allows the researcher to familiarize him/herself with the problem or concept to be studied, and perhaps generate hypotheses to be tested. In this paradigm Bogdan & Biklen (1998), say the emphasis is on facts and causes of behavior and the information is in the form of numbers that can be quantified and summarized. Furthermore, Charles (1995) says, the final result is expressed in statistical terminologies.

Therefore, when was necessary to show prevalence of reaction of people towards movie piracy, the results are expressed in terms of numerical data.

3.1.1. Methods of Data Collection

The study is not only expected to prove whether movie piracy exists in the country. In that case, a few interviews with those who are affected by piracy would have helped reach the sample saturation point. But it also tries to show the fear that is shared by emerging filmmakers in the country. Consequently, quantitative data collection tool, such as questionnaire will also be used. The findings of the two methods were triangulated in the presentation and interpretation chapter in a manner that findings of the latter tool would add statistical credibility to the findings of the former.

3.1.2. Sampling methods

The research uses two methods of sampling based on the kind of population the researcher needs to sample.

3.1.2.1 Typical-case sampling

As Deacon et al (1999) notes, the typical-case sampling method helps identify a case that exemplifies the key features of a phenomenon being investigated. In the fourth chapter, three movies will be selected using this sampling technique to showcase how far movie piracy has extended and how the industry has been disadvantaged due to the illegal practice.

All filmmakers who were disadvantaged by movie piracy are either interviewed or made to respond through questionnaires. The fact that the researcher tried to reach all [available to respond] producers without having to take a sample population is because the population is still in its manageable size.

3.1.2.2 Non-random sampling

The research will use a non-random sampling technique. The researcher prepared two questionnaires; one for the victimized and another for the ones who are producing movies. The questionnaire for the victimized will assess the damage while the questions for latter group will assess how the fear-factor has impacted their decisions in the production process. However, while the ones who are still producing movies will get one of the questionnaires that which tries to find out about the fear-factor of movie piracy, the victimized group of filmmakers will get both questionnaires since there is a chance that they will be making films again.

3.1.3. Major actors in the fight against piracy

3.1.3.1 Filmmakers

Intellectual property, like any other tangible property, should first of all be protected by the owner. Therefore, the filmmakers who worked very hard to produce their movies to the maximum possible standard are always on the forefront in the fight against movie piracy.

3.1.3..2 Public

As government body endowed with the potential to execute the rule of law the police hold an important place in the fight against movie piracy.

Police are thus indispensable actors in raiding operations, in the chase against street vendors, in investigating piracy related cases and in bringing the matter to the attention of the government attorney who opens the case in the court.

3.1.3.3 Ethiopian Audiovisual Producers' Association (EAPA)

Established with the vision of seeing a prosperous local art industry where the owners of the copyrights in particular and the country at large get what they

truly deserve, EAPA is one of the major actors in the fight against piracy. The association is constituted by 149 Producers, studios, distributors and so on.

3.1.3.4 Ethiopian Intellectual Property Office (EIPO)

The Office, having been established with the objectives which will be stated below is one of the major actors in the fight against piracy. The office according to Ethiopian Intellectual Property Office Establishment Proclamation No. 320/2003, page 2128, has the following major objectives:

- 1) To facilitate the provision of adequate legal protection for and exploitation of intellectual property in the country;
- 2) To collect, organize and disseminate technological information contained in patent documents and encourage its utilization;
- 3) To study, analyze and recommend policies and legislations on intellectual property to the Government;
- 4) To promote knowledge and understanding of intellectual property among the general public.

3.1.3.5 Legal System

The legal system is constituted by the court and the government attorney. All the efforts exerted by the above four actors come to a wrap up at the court. The commitment and awareness of the court about the nature of copyrights and intellectual property is vital in implementation of the existing proclamations.

3.2.2. Primary Victims

3.2.2.1 Filmmakers

Filmmakers are stopped from realizing their full potential in fear of failing to reap fruits of their creativity. Knowing that they have no guarantee on where, when and how their intellectual properties are used frustrates filmmakers and affects

the input they put into production.

3.2.2.2 Economy

As indicated at the problem statement section, piracy of intellectual property costs the economy. Even if there is no clear data as to the extent of movie piracy in Ethiopia, the Ethiopian economy is certainly not getting what it is due because of piracy.

The income tax that the economy could have got from the legal producers has been cut short because of the pirates who never pay taxes.

3.2.2.3 Industry

As pointed out in the statement of the problem, movie piracy costs the cinema industry in terms of money, creativity and quality. The issue of copyright breaches worries most writers more than the prospect of having fewer turnouts for their movies.

One thing that worries writers a great deal is the possibility that their scripts or ideas will be stolen. A major form of protection is the Copyright Act, which is designed to maintain property rights for a specified period of time for material people create.

Willis & Arienzo (15, 1993)

Piracy discourages cash flow into the sector which will in turn affect the writers', actors', musicians' and directors' income. The use of poor photography, lighting, sets, unprofessional costumes and unprofessional casting hugely affects the final product i.e. the film, in particular and the industry at large.

3.2.2.4. People

It is clear that works of art increase the productivity of people. So much so, when creativity dies, when people run short of things they would turn to after work, their productivity decreases. The large turnouts for local cinema show that the Ethiopian people need films made for Ethiopians by Ethiopians. Therefore, movie piracy affects the development of local cinema thereby affecting the people.

3.2.3. Primary Offenders

3.2.3.1 Pirates

Encouraged by the unsatisfactory legal enforcement, the pirates seem virtually unstoppable. They do the counterfeiting not so far from the reach and view of the police and the filmmakers.

3.2.3.2 Street Vendors

They flood the streets in Piazza, Mexico, Urael, Bole and Merkato (Around Anwar Mosque and St. Raguel Church). Most of these street vendors fear the police but have no clue about the extent of damage they are causing to either the filmmakers or to the industry.

3.2.3.3 Buyers

The person who buys the counterfeited copies is contributing to the expansion of the illegal act. No pirate survives in a system where there are no buyers of the counterfeited copies.

To few filmmakers, the people hold a better key in the fight against movie piracy than any of the other actors in the industry.

3.2.3.4 Renters

Renters of movies reap the fruits better than the filmmakers themselves. They rent a VCD/DVD over a hundred times to over a hundred people that there is no need for the people to buy a copy. People have to pay just one or two birr (depending on the area where the shops are located) to watch a legal or pirated copy. Therefore instead of the filmmakers getting a hundred buyers, they will only sell one copy and that will satisfy the demand of hundreds of people which affects their financial gains.

3.2.3.5 Police

A police that appeases the street vendors who sell counterfeited copies is a great collaborator of the crime. While one reason is the fact that these copies are taking the money away from the original owners of the intellectual rights and away from taxation, a bigger reason is the fact that it encourages the pirates to do more as there is no one in their way.

Chapter four

4. Presentation and Interpretation of Findings

This chapter puts forth the findings of the research and discusses the findings supporting them with real case studies, relevant legal provisions and communication theories. First the losses suffered and case studies will be presented to showcase the situation followed by the legal remedies in place.

4.1 Losses suffered

As indicated in the statement of the problem, Piracy costs the industry in particular and the country at large in terms of money, creativity and production quality.

The disadvantage of movie piracy in Ethiopia is thus too multi-faceted to treat one by one. It can, however, be effectively classified in three broad categories.

4.1.1. Financial Loss

This section covers the loss suffered by filmmakers at individual level. As it will be well understood from the case studies presented, it is fair to say filmmakers have been swimming against the tide. Movie piracy is adding injury to the wound.

Nebiyu Engidawork, manager of Ethiopian Filmmakers' Association, is known for the documentary he made on the situation of filmmaking in Ethiopia. Nebiyu said that in the period between September 2007 and September 2008 alone, the filmmakers have lost a combined 2,000,000 ETB (not due to piracy) while the government gained 6,000,000 through tax, cinema rent and others. Movie piracy is an addition to these losses the industry has had to live with.

ed their films in DVD in 2007 and 2008 reported that they
es ranging between 30,000 ETB and 500,000 ETB.

undreds of movies are released in VCD and DVD formats,
' losses is beyond expectations.

ducers of *The Secrets of the President*, Giroum Ermias was
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illegal practice. There are hundreds of their kind who
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ema and of reaping fruits of their effort.

though. There are actors, musicians and writers who are

makers reaped the fruits of their efforts, they could have paid the majority of their earnings in form of tax. To the disappointment of filmmakers, the government of Ethiopia has a different tax policy to the cinema industry. While musicians are not yet subject to any form of taxation, filmmakers are taxed 15 percent of their revenue. 15% of their income goes in the form of Value Added Tax (VAT), 20% goes in the form of Entertainment Tax while 30 percent of their net profit goes in the form of Profit Tax. One producer who noted that the cinema industry is taxed more than alcoholic drinks or cigarettes, described the 'harsh' government labeling filmmakers as 'step-children of the country.'

From the above mentioned two movies (they are just selected to show the lowest and highest loss registered) of the hundreds of victims of piracy lost a combined 100,000 ETB due to piracy, the overall loss at a national level is beyond measure.

The fact that the film producers are highly taxed from the screening of their movies forces them to evade taxes after the launch of their VCD/DVDs. Some producers actually admitted that by the time they launch their VCD/DVD, they realize that they are already overtaxed and that the country would not expect to receive any more from a producer who is already paralyzed. And thus they resort to illegal marketing and selling their VCD/DVDs in a way that would not 'expose' them to further taxation. This exposes them to movie piracy since such backyard marketers are not trustworthy business practitioners. Furthermore, tax evading in any business is the worst calamity that can happen to a nation's economy.

Advantages of piracy on the industry

From the filmmakers and their associations indicate that, by now hardly

producer takes out his movie from cinema, he takes it to other duplicators who also do duplication and distribution of VCD/DVDs. These businesses offer the filmmakers two options. The first is to buy the movie from the distributors and take care of the duplication and distribution process. The second option is to let the filmmaker take care of the duplication so that the distributors will do the distribution and get commission for each copy. Just a few years ago, filmmakers made up to 420,000 ETB through the first option. Now the price has fallen as low as 20,000-30,000 ETB. This, the filmmakers argue, is because of the fact that the producer-distributors will only have a one-day-long market after the counterfeited copies will flood the market for much lower price. That has discouraged investors who would have invested their money to produce quality movies and earn a reasonable profit.

The filmmaker actually noted that he would be better off buying a taxi instead of investing his hard-earned money on filmmaking.

Tadesse, manager of EAPA, says that when the association was established in August 1997, there were 250 member producers, publishers, and others in the audiovisual industry. However, 101 of them could not bear the financial and moral losses caused by piracy and signed out of both the industry and the association.

According to Nebiyou Engidawork, general manager of Ethiopian Filmmakers' Association (EFPA), hundreds of producers were involved for the production of over 350 movies that were screened in Ethiopia so far. However, only a few of these producers managed to produce another movie again. This shows that filmmaking is not a financially attractive industry at the moment.

Gezahegn Tadesse is a typical example of such producers. Gezahegn had to sell his house to produce his first movie, *Sewena Amelu*. He has lost 30,000 ETB leave alone making profit. Asked, in an interview, if he could venture into the industry with the same energy and if he would like to publish his next movie (if any) in VCD/DVD, he said he "would even not advise his enemies to ever try it."

The industry is chasing away people who were ready to pay anything to develop it. Today, people who heard hundreds of producers with similar stories like Gezahegn are shying away from investing in moviemaking.

Lack of cash flow into the industry clearly impacts the quality of production. With less production budget and less profit expected, less quality recording machines will be used; less descriptive sets and costumes will be chosen, less qualified directors, camera operators and editors will be picked; which in the final analysis disables the development of the industry.

The fact that producers do not want to publish their movies in VCD/DVDs does not only affect the cash flow into the industry, it also retards the popularization of cinema as means of cultural expression.

4.3 Situation of Movie Piracy: Case studies

The reaction of filmmakers to the damage of piracy varies. However, the reaction can generally be categorized in two groups. Based on the frequency of respondents, the groups can be best described as The Discouraged Many and The Optimist Few. The Discouraged Many comprises the majority of filmmakers who reported to have compromised or who will compromise the quality of production after their previous movies were pirated. The Optimist Few are those who believe the industry should not be dispirited so soon as they

consider piracy inevitable in the development of the cinema industry.

The Discouraged Many argue that movie making has two main purposes: money making as an industry and expression of culture as form of art. Filmmakers in this category strongly believe that the art cannot be founded well without it generating money to support its development so much as the industry cannot generate any income if it does not carry any substance. They therefore believe that balancing the two is critical. This, they argue, could at least temporarily be attained by minimizing cost of production hence minimizing the potential loss. Members of this category argue that the existence of the industry is only viable so long as there is some resource left in the industry.

The optimist few argue that movie piracy is an occurrence all cinema industries in the world live with and that Ethiopian filmmakers should not expect Ethiopian cinema to be an exception. Claiming that the technological advancements such as non-copiable DVDs were results of the DVD/VCD counterfeiting both in movies and software piracy, this group foresees the same reaction from the industry at local level. The optimist few thus believe that compromising quality of production in fear of piracy would only tamper with the popularization process of filmmaking, and that it would have no effect on combating movie piracy.

Tamiru Birihanu and Gezahegn, producer of *Sewena Amelu*, forward two solutions to preventing piracy. Tamiru recommends that either founding new duplication facilities with the capacity to produce non-copiable VCD/DVDs or enabling the existing one to do so is an unrivaled situation. Gezahegn on his part recommends that there should be a way of decreasing the price of the original copies so that there would be a justifiable gap between the illegal and the legal copies.

Unlike the majority of filmmakers who insist that all the stakeholders have equally important role to play, Tamiru puts the role of the people on top. He says that the legal framework, the police and filmmakers cannot do anything without the public's conviction of the disadvantages of piracy.

This calls for communication. The people need information as to what copyright is to stand by the side of the filmmakers against piracy. If the people are aware that buying counterfeited copies is killing creativity and the industry at large, then police might even not be needed that much.

Over 75 percent of the disadvantaged filmmakers [those who were reached by the researcher] agree that the duplicators and the distributors are the major culprits in the piracy business. The case studies that are presented below validate this argument. The remaining 25 percent attribute it to people who are established and well equipped to do just piracy. But none of them reported street vendors who are mostly imprisoned as major culprits.

4.3.1 *The 11th Hour*

Zealelem Woldemariam, General Manager of Zeleman Production, Producer of *The 11th Hour*, belongs to the optimist few.

After the screening of the movie is over, Zeleman Production looked for a way of availing the movie to the public through DVD. With the intention of catering for the people who have not managed to watch it in cinema and reaping the fruits that would come along, the producer ordered a first round duplication of 10,000 copies of DVD with the cost of 150,000.

Days before the official launch of the DVDs, however, street vendors requested the producer if he would like to buy the new film, *The 11th Hour*. Astounded and not believing his ears, he asked for a copy. They indeed offered to sell it to him for 10 ETB which is 15 ETB less than the price of legal copies. The producer knew who the culprit was as it was an employee of the duplicating company who sold the master copy to pirates. He took the culprit to the police but later he decided not to pursue the case because he thought it would all end in vain.

The general manager of the production company is familiar with Proclamation No. 410/2004, Copyright and Neighboring Rights Protection Proclamation. However, he, like all other respondents, does not have trust in the legal system as far as the implementation of the above mentioned proclamation is concerned. That was why he did not take the pirates to court.

He therefore chose to wait and see how the sales for the original copies would go. However, by the time the 10,000 original copies entered the market, the demand was well catered for by the illegal copies which were sold for 40 percent cheaper price. The sales could not go any farther than 4,000 copies, causing the producer a 500,000 ETB loss.

A questionnaire form distributed among 180 people showed that only 12 percent of them bought the original copy and watched it. 80 percent bought or rented the pirated copy. Lower price, availability at any place (traffic lights, music shops anywhere in the city, etc) contribute for the people buying pirated copies while higher margin and high demand are the reasons for street vendors not choosing to carry the original copies as much as they carry the pirated copies. This will be discussed in detail under its own sub-headline later on.

The loss is not limited to the producer, however. The government could have collected 65% of the expected income through Value Added Tax (VAT), 15%, Entertainment Tax 20% and Profit Tax (30%) had it not been eaten away by the pirates. Likewise, when the resources at the producer's disposal shrink, the resources available for the later movies logically decrease. This deterioration of available resources in turn impacts the quality of production in particular and the development of the industry at large.

Zealelem Woldemariam who produced *The 11th Hour* is optimistic that things will get better with time. But until then, he argues, production quality should be maintained to the best possible extent. Zealelem further declares that if he produces another movie, he will release it in DVD because reaching the public through any possible channel is his prior goal.

4.3.2 Love and Dance

The producer of *The 11th Hour* is a typical example of the optimist few who, after being disadvantageded by piracy, still claims to have not lost the vigor to use their maximum resources available in the production of their next movies. A similar example is Birihane Negussie, producer of *Love and Dance*.

Like *The 11th Hour*, *Love and Dance* was screened in cinema before the producer decided to release it in DVD to cater for those who did not watch it in cinema and for those who would want to have their own copy.

Consequently, Birihane duplicated a first round of 5,000 copies at a cost of 38,000 ETB. However, like *The 11th Hour*, illegal copies of *Love and Dance* flooded the streets long before the official release, Birihane only managed to sell 3,000

copies making him suffer a loss of not less than 100,000 ETB.

The suspect was caught red-handed but the police, Birihane says, let him go. Even though they did not expect it would go that far, Birihane and her colleagues expected that there would be some loss because of lack of copyright protection in the country.

Kezkaza Wolafen and Fikir Siferd

Two films are treated together because they were produced by the same producer and were subject to similar disadvantages of piracy. *Kezkaza Wolafen*, *Fikir Siferd* were produced at a cost of 542,000 ETB and 600,000 ETB respectively. They were both screened in cinemas for quite a long time and were very popular among the larger public.

After the screening was over Tewodros Teshome, producer of both films, made copies of them in VCD. Days before the official release of the VCDs, Tewodros found many illegal copies on the streets. He later found out that a worker of the printing company stole the master copy and sold it to pirates. Tewodros is not satisfied with the copyrights and neighboring rights proclamation. He sued the pirates and demanded justice hoping that the culprits will be imprisoned and he will get compensation. But justice is not delivered yet.

When the legal copies arrived at the market, the market was badly flooded with the illegal copies. Tewodros did not indicate the financial losses he suffered. But one point is important; whatever he lost due to piracy is lost to the national economy as well.

After the production was over, Gezahegn Tadesse, Producer, duplicated a first-round duplication of 3,000 copies at a cost of 16,500 ETB. He wanted to duplicate more because he expected to sell a minimum of 10,000 copies. However, the duplicators advised him to start with fewer copies since they knew about piracy. He listened to the advice and duplicated 3,000 copies. Nevertheless, after two years, 200 copies are yet to be sold. The original copies could not break into the market as much as he thought they would. As Gezahegn claims, the problem lies at the duplicators and distributors who get into contract with the producer to pay as per number of stickers sold. The system is such that the producer would provide the duplicator and distributors a limited number of stickers that they will stick on the duplicated VCD/DVDs and sell. The number of stickers sold determines the number of copies for which the producer claims payment. However, Gezahegn says, the distributors sell illegal copies side by side for which the producer has no control and thus they will get all the profit out of it. Gezahegn, having learned that his movie is in most houses, believes there are more than 100,000 copies of the illegal copies are sold. However he has suffered 30,000 birr leave alone making profit.

4.4 Public and Street vendors on Movie Piracy

Having learned that about 80 percent of the people [who have bought VCD/DVD of *The 11th Hour*] have bought pirated copies, they were asked why they buy pirated copies. Their responses were various. However, they can be categorized into three main ones: 1) Cheaper price for exactly the same quality, 2) Accessibility of pirated copies without having to go to music or video stores, [pirated copies are more available with street vendors in traffic lights, in bars, cafeterias, sport centers and restaurants], 3) it is fine to buy pirated copies. Most respondents said that the government would not have allowed them to sell on the streets if it was illegal.

Three responses were the most repeatedly mentioned reasons for buying copies.

Vendors, on their part, said that the important reason for them selling copies is because pirated copies are the most demanded.

Vendor said,

I have to avail what is demanded the most. Most people want the pirated copies so why should I carry the original copies around while I can make more money vending the pirated copies. Besides, I don't get that much profit from the original copies. After all money is why we are all out on the streets.

Major stakeholders have cast light on the major problems. To start with the problems identified by the public, the first one is the fact that the policy showed by the government has legitimized the practice. The second problem is that there is a problem in sufficiently and strategically availing the legal copies to the public who do not always have the time to go to the big stores. The third one is the fact that there is still a lack of awareness among the public about the disadvantages of piracy and copyrights violation at large.

Vendors have also raised some important points. The first is the fact that there is very little profit they can get from the original copies. This is so because the price they pay for the original copies from distributors is quite close to the price they sell it for. Therefore, if the profit they get from the legal copy is less than that which they get from the illegal copies, they tend to trade the

illegal copies because they sell more illegal copies. The fact that there is more demand for the illegal copies has its own message as well. The price of the legal copies should be decreased to persuade the people to go for the legal ones. In this regard, there is a lesson to be learned from the music industry, a few years ago the price of a legal copy was 13 ETB as opposed the illegal ones which were sole 6 ETB, which was 216.6 percent cheaper. Then the music industry discussed the feasibility of decreasing the price of the original copies and selling more copies and earning more at the same time. As a result, they started to sell the legal copies for 9 ETB. The reaction was visible. Today hardly any street vendor carries illegal tapes. And the income of the musicians has significantly increased from a maximum of 400,000 ETB to up to more than 1,000,000 ETB.

The government has housework to do as well. The fact that the street vendors are least harassed and pirates less discouraged through the legal system has virtually legitimized the practice. And, sadly, the fact that the practice is considered legal among the public, is used by the courts as justification for lessening of sentences. Designing and implementing popularization strategy and creating knowledge and understanding about the proclamation was the duty of EIPO according to its establishment proclamation. However, the mistake of one government body is being used as justification for mistakes committed by another government body.

4.5 Legal System

This section presents what the law provides regarding protection of intellectual rights, penalties imposed on offenders, length of protection for audiovisual related intellectual rights and so on.

To avoid any doubt as to whether the movies under discussion have entered

public domains, it is important to be reminded of the protection duration given to economic rights relating to an audiovisual work. Audiovisual works, CNRPP Article 20(8) requires, shall be protected for fifty years beginning from the date of making of the work or communication of the work to the public. Therefore, none of the films have entered public domain.

Court cases were collected to observe implementation of the CNRPP. The law puts forth four remedies and measures to protect copyrights and neighboring rights. The first is called Provisional Measures which mainly deals with prevention of infringement and preservation of relevant evidence related to violation of intellectual property rights. The second one is called Border Measures which states rights given to the Customs Authority regarding retaining of infringed goods captured at customs check-points. The third and fourth ones are known as Civil Remedies and Criminal Sanctions. Few sub-articles in the later two are presented in detail since they are of day-to-day use in court trials related to CNRPP violations.

4.5.1 Civil Remedies

Article 34 of the CNRPP provides that the [Federal High] Court that has jurisdiction to try civil suits arising under this proclamation, shall have the authority to award adequate compensation for the material and moral damage suffered (including payment of the right holder's expenses), grant sanction and give order as it may deem reasonable.

The most important of all the sub articles in article 34 of the CNRPP is sub-article 4. This sub-article requires that the amount of compensation for material damage shall be fixed taking into account the extent of material damage suffered by the owner of the right and the amount of profit attributable to the

important to be reminded of the protection duration given relating to an audiovisual work. Audiovisual works, CNRPP shall be protected for fifty years beginning from the date of publication or communication of the work to the public. Therefore, works that have not entered public domain.

It is important to observe implementation of the CNRPP. The law provides various measures to protect copyrights and neighboring rights. The first one is called Provisional Measures which mainly deals with prevention and preservation of relevant evidence related to violation of intellectual property rights. The second one is called Border Measures which involves the Customs Authority regarding retaining of infringed goods at customs check-points. The third and fourth ones are known as Criminal Sanctions. Few sub-articles in the later two are particularly important since they are of day-to-day use in court trials related to

The CNRPP provides that the [Federal High] Court that has jurisdiction over suits arising under this proclamation, shall have the authority to grant adequate compensation for the material and moral damage suffered (including payment of the right holder's expenses) grant

act of infringement. The amount of compensation for moral damage shall be determined based on the extent of the damage and not be less than Birr 100,000. However, sub-article 5 stipulates that where the person who commits the act of infringement is not aware of or has no reasonable ground to be aware of [the disadvantages of piracy]; the court may limit the amount of compensation to the profit derived from the act.

4.5.2 Criminal Sanctions

Article 36 of the proclamation provides the following sanctions for those who violate the copyrights and neighboring rights.

Sub-article one stipulates that unless otherwise heavier penalty is provided for under the criminal law, whoever intentionally violates a right protected under this law shall be punished with rigorous imprisonment of a term not less than 5 years and not more than 10 years. However, the next sub-article limits this a bit as it says, "if the offender, by gross negligence, violates a right protected under this law, shall be punished with rigorous imprisonment of a term not less than 1 year and not more than 5 years.

Even if the above mentioned sub-articles should set the ground for the sentences that are given to those who trespass the law, the truth is different. Most judges tend to pick lighter sentences than the least possible penalty that is required by the law. For example, the courts have passed imprisonment of five years only in two of the 188 cases Getinet Yeshaneh, who researched Copyrights and Neighboring Rights Protection Proclamation Implementation, found in the Federal High Court. Most others have received six months of imprisonment, some were even let go reserving 500 ETB as collateral, and some cases have been suspended ruling that the suspects shall be punishable should

they be caught involved in the same crime again.

The courts pass these unreasonably lighter sentences mentioning, among others, the following reasons:

- 1) The suspects admitted their offences and they promised that they will not be involved in such crimes again.
- 2) The suspects committed the crime in a time when the proclamation was not widely known among the public.
- 3) The suspects committed the crime in a time when copyright violation and trading of illegal copies is wrongly considered legal.
- 4) The suspect was caught selling the illegal copies on the streets on daytime and that speaks for his/her negligence.
- 5) The suspect's educational status is such that he would not have knowledge of the disadvantages of piracy
- 6) The suspect committed the crime to win his daily bread and it was evident that she/he has no intention of harming the owners of the copyrights and neighboring rights.

To mention a case:

Muhammed Munuta was accused of having been captured red-handed vending 199 copies of VCDs including among others the comedy dramas *Che Belew* and *Ziniq*. After a series of trial sessions, the judge said that *"the offender committed the crime in a time when the proclamation was not yet well known among the public and that the trading of illegal copies was considered legal by the majority of the people. Furthermore, the criminal is the breadwinner of his family. Taking into account all these considerations, the court passed that the*

criminal would be imprisoned for a term of one year."

Case number: 62311. June 20, 2008

Generally speaking, the law has not yet been implemented up to its full potential. Offenders are not caught and brought to the court. The court gives sentences that are not in line with what the proclamation sets. The EIPO itself does not believe the law has been enforced to the required level. However, the office could not do much more about it than identifying the major problems hindering proper implementation of the law. The document entitled *Problems Identified Pertaining to the Enforcement of the CNRPP*, produced by the Office in January 2008, underlines that even though owners of the right and the executive are main actors, proper enforcement of the proclamation needs the cooperation of all. These problems are presented in detail in chapter two.

However, the CNRPP has still put some fresh blood in the owners of the intellectual rights. Since the enactment of the proclamation, according to a report by EAPA, over 604 suspects were sued. Being the major actor in the protection of the copyrights and neighboring rights, EAPA has been facilitating raiding of illegal shops and pursuing court proceedings.

The report however argues that all these positive efforts have not been able to bring about the expected result. The document attributes the expansion of the illegal practice to the loose legal enforcement observed around the police and the judiciary. It does not specifically mention communication of stakeholders, but it touches upon it by saying that "it needs cooperation of all."

A flyer entitled *General Information on Measures Taken and Illegal Copies Confiscated* prepared by EAPA in April 2009 states that 604 suspects were sued,

64 duplicating machines, 41 format converters and 134,590 counterfeited copies have been caught by the police as exhibits. But only 19 of these suspects have actually been imprisoned.

The research conducted by Getinet in February 2009, shares the argument of EAPA. The researcher finds that of the 188 piracy related files he found in the Federal High Court, 131 (69.68%) files have been closed by the court because the police could not catch and bring the suspects to justice. Of the 188 files, Getinet says, 25 were closed because the court proved the suspects innocent while only 12 were found guilty and received sentences. Please note that the number of people who are found guilty in Getinet's research is less than that which is indicated by EAPA because the EAPA document covered the time span until April 2009 while Getinet's study covered the time span until February of the same year.

Upon closing files due to police's failure to bring suspects to justice, according to Hailay Tadesse, EAPA general manager, the court orders the police to bring back the closed files when they find the suspects. However, police have never implemented the orders. Hailay also stated that 35 suspects have been found in the crime over and over again. However, the police have never reactivated their previous cases. Getinet thus concludes that the effort the police have exerted to fight piracy has been very minimal.

Having said that, it is evident that the blame is shared by owners of the intellectual rights as well. Hailay argues that the intellectual property owners hardly file charges themselves. And even when EAPA opens the cases, Hailay says, the intellectual right owners do not show up at the court to testify about the moral and economic damage they have suffered. This negatively affects

the estimation of the damage suffered on, which the court determines amount of compensation.

Almost all of the respondents agree with Hailay that they do not exhaust the legal battle against the pirates.

Tamiru Birihanu, actor for over a decade and producer, attributes this to lack of awareness among the producers as to the advantages of having qualified lawyer and if possible insurance for their movies.

However, most of the respondents (film producers) give a common reason as to why they do not use the legal tool. They reported to have no trust to the legal system as far as implementation of CNRPP is concerned.

The general consensus that all the producers expected that their movies would be pirated anyway speaks for their lack of faith in the government's ability to stop piracy.

From the court sentences and the list of justifications mentioned by the court to have lessened the sentences, it was visible that movie piracy was not regarded as seriously as it should have been.

4.6 Lack of Effective Communication among Stakeholders

The first time cooperation and communication among filmmakers themselves and between them and the business community was raised as important tool was on 15th December 1995. By then Performing Arts-Business Alliance (PABA) was proposed at Hilton Addis Ababa. The aim of the alliance was to bring together the resources of each party for the betterment of the profession and

the industry. But even that was not successful.

Since the dissolution of EFC on 21st January 1999 there was not a single effective and long-lived professional association of filmmakers. Ethiopian Film Producers Association (EFPA) only half-a-year old and Alatinos Filmmakers Association (AFA) are still at their nascent stage. However, the later group has shown some commendable beginnings.

AFA for example conducts roundtable forums where the professionals critique each other's work and learn from each other's experiences. The association also holds experience sharing sessions where internationally renowned filmmakers share their experiences to emerging filmmakers in Ethiopia. The other filmmakers' associations should learn from such experiences.

More than half of the filmmakers who were reached through interview or questionnaire are not members of any of the filmmakers' associations in the country. They mentioned various reasons for not choosing to become members of such associations. All the respondents but two (who attributed it to fear of bureaucracy and personal weakness) mentioned that they have not seen any of the existing ones bringing about tangible change and thus they do not want to belong to a historically ineffective group. Members of this majority group further stated that that they do not expect a different result from the same process that proved a failure in the past.

Whenever they found associations the filmmakers try to go through the major four functions of group communication for decision making devised by Hirokawa and Gouran. They naturally work their best to 1) identify the problem, 2) set a goal to achieve, 3) look out for their alternative solution, and 4) set out

to evaluate their positive and negative characteristics. But by the time they reach this level most of the members are no longer there.

These filmmakers believe that Ivan Steiner was right in claiming that actual group productivity was potential productivity minus losses due to processes

Hirokawa and Gouran (255, 2006) are convinced that there are three types of communication in decision-making groups: Promotive, Disruptive and Counteractive.

The promotive communications involve interaction that moves the group along the goal path by calling attention to one of the four requisite decision-making functions. The disruptive communication involves interaction that diverts, retards, or frustrates group members' ability to achieve the four task functions. The counteractive communication involves interaction that members use to get the group back on track.

These three types of communication have taken place several times as some people establish professional associations which others would help fall apart. Then some people step in to bring everybody back and renovate the existing association or establish a new one with new vision and enthusiasm only to be disrupted again.

This function oriented communication theory, however, is doomed to failure as the nature of the associations calls for other functions than the four designed sufficient by the two scholars. With all due respect to the four functions i.e. Problem identification, goal setting, identifying alternative solutions and evaluating the negative and positive characteristics, Cynthia Stohl and Michael

Holmes add two must-have functions.

The first one, Institutional function is basic to study the relationship of members inside or outside the groups. This function which they otherwise refer to as institutional function is satisfied when members discuss the reality of power brokers and stakeholders who are not at the table at the particular discussion. Likewise, they strongly recommend addition of a historical function to study how past decisions were made in the group or in the previous groups.

The currently active professional associations seem to be excited about what the present and the future has to offer, completely disregarding the past. However, the veteran film expert and one of the founders of late EFC, Teferi Wossen, agrees with Stohl and Holmes as he fears that disregarding history does not help avoid repeating the mistakes of the past. Teferi thus advises the combination of the experience of the past with the enthusiasm and technological advantages of the present.

Chapter 5

5.1 Conclusion

The situation of movie piracy is very critical that it needs stakeholder cooperation. Using the past experiences is vital to avoid repeating mistakes. Taking up the best experiences of the past and leaving the inefficient ones helps the otherwise cynic filmmakers understand that the present day associations and discussions are improved extensions but not replicas of their predecessors.

Dwelling on past failures and shifting the blame only replicates the past mistakes rather than improving things. The distance between the veterans and the newly emerging filmmakers is not justifiable.

Efforts of Addis Ababa University (AAU) to bring the stakeholders together is commendable. AAU's partnering with the likes of Indian Embassy and US Embassy is also commendable as it helps mobilize resources that will be used to pave the way for emerging filmmakers.

Lack of professionalism is quite noticeable in the industry. Initiatives mentioned at the Ethiopian Film Initiative to open Film School in AAU is yet to be achieved.

The Ministry of Culture and Tourism, parent ministry of arts, is not lending as much support as it is supposed to in developing the industry. There is information that the Ministry has convened few of the stakeholders in April 2009 though the relevant officials could not be reached. Government is responsible to pull the cinema industry out of the quagmire it is currently in.

The filmmakers' associations do not communicate with each other. Instead they

are engaged in shifting the blame from one to the other. Lack of communication and unity makes them more susceptible to external threats such as piracy. Their voice has not been heard by the government as much as that of the musicians because they have not voiced their concerns as unanimously as they could. To claim others' support, the filmmakers should first of all stand together and make their efforts concerted.

Again to get the moral ground to claim their intellectual rights, filmmakers should lead by example. Most filmmakers use music without asking permission from the singer or the musicians. A filmmaker who violates others' copyrights lacks the confidence to claim his/her own.

Lack of awareness about copyrights is observed in the judiciary and the police. These parties seem engaged in protecting the pirates. The failure of the police to catch and bring suspects to justice has helped close 131 cases. The court has actively defended offenders mentioning reasons that are covered in chapter four.

The role of the people seems to have been completely forgotten. The people hold the key. No pirate survives in a system where the people denounce and reject counterfeited copies. However, there is no noticeable TV, Radio, Print or Billboard announcement aimed at reaching the public with anti-piracy announcements.

5.2 Recommendations

5.2.1 Filmmakers

- In the legal battle, filmmakers should, as owners of the copyrights and primary victims of piracy, always take the lead in the fight. Once their movie is pirated, they should take the case to court and pursue it until the very end so that the pirates realize that the practice is costly. Furthermore, pursuing it by itself and making it a case for the media increases the public awareness about the copyrights and CNRPP. That also helps the court understand the issue better.
- With the currently observed negligence from the government, filmmakers have to fight counterfeiting on their own as much as they can. The one and only method is to make the VCD/DVDs non-copiable. This could be achieved, for example, by importing the machine or by demanding the existing legal duplicators to capacitate themselves at that level. As an association, for example EFPA or EAPA could request a bank loan (if legally viable) or member contribution which will be payable when the machine starts generating money.
- The filmmakers need to have a well established and recognized association that will be heard by the government and lawmakers. That brings attention to their cause and makes it easier for them to lobby for enforcement of law. Instead of hiring lawyers separately the association may deploy its highly qualified lawyer charging members a reasonable fee. That way they can share the burden of hiring a top class lawyer for each case.
- Once set up and well grounded, the association would cooperate with the federal police and form its own recognized policing team whose only job would be to go out and catch illegal copies on the streets and hand over the pirates to city police force. If we see what High Schools are doing right now, they send two or three of their students to get training from the Government Traffic Police Office so that they assist the government traffic police in helping the students cross streets around schools. If any driver underestimates their

order, they will hand his license plate number over to the government traffic police so the offender gets penalized.

- Again once set up and well grounded, the association will collaborate with the EIPO (which is responsible as per the duties laid up on the office by the establishment proclamation) to produce TV and Radio spots to communicate to the people important messages designed to enhance public awareness about copyrights and disadvantages of piracy.
- Filmmaker should state all the intellectual and neighboring rights owners' names and contributions on the label so that they will not be the only ones in the fight against piracy. The fact that the performers', musicians' etc names are there and that they will benefit for every extra income generated makes them alert about the number of copies sold and whether all copies sold are legal ones. That adds recognition to owners of rights adding to the societal understanding of what copyrights are.
- Mainstreaming police in the film production process and inviting officials on premiering and Launching of VCD/DVDs makes them sensitized about the expenses involved in making films.
- Cooperating with EIPO in organizing specialized workshops for lawyers and police is very helpful in nurturing the required awareness about the nature of copyrights.

5.2.2 For the EIPO

The Office shall discharge the responsibilities that are laid upon it by the establishment proclamation.

The office should discharge its duties of designing and implementing extensive and coordinated popularization strategy to create and strengthen awareness about intellectual property among the general public. Creating an information system on intellectual property rights would encourage researchers to study the

international experience and update themselves about what the consequence will be if the practice is not cut short.

5.2.5 For all

Above all, establishment of a National Film Council comprising people in the film industry, representatives from the government, university representatives, parliamentarians, judiciary and people from the business community is the best solution. Such a well constituted film council would facilitate the production, protection and control of film related issues. It also brings every stakeholder together and makes anti-piracy efforts concerted, hence loud and effective.

Using public figures such as athletes, musicians, journalists, film stars, religious fathers, elderly, government officials and so on is a key strategy to inculcate the concept of copyrights, piracy and its wider implication.

5.3 Suggestions for farther research

The issue of movie piracy should be studied in a fairly better depth. This study has shown only the impact of piracy at individual filmmakers' level. This was due to lack of documentation from the filmmakers, and of course, lack of resources from the researcher's side. Future researchers should use this study as a stepping stone to quantify the damage of piracy at a national level. Such macro-level research helps the filmmakers face the government with tangible information as to how much piracy has disadvantaged them, the industry and the national economy at large.

Causes of piracy are looked at from the filmmakers', the legal systems', the street vendors' etc point of view. Other causes should also be studied so that whoever wants to take measure should base their steps on the finding of the

research.

The first challenge on doing this area was finding related research on Movie piracy in particular and historic perspectives on Ethiopian Cinema. The history and development of Ethiopian film has yet to be researched, compiled and published. Challenges, Prospects, Underlining Philosophy etc of the Ethiopian Cinema needs to be researched as well. Such literature enables emerging filmmakers to know the progress of cinema, their challenges and prospects when joining the industry.

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<http://www.historyofcopyright.org/> An official website dedicated for informing people about the history of copyrights and neighboring rights

<http://www.mpa.org/piracy.asp> Motion Picture Association of America official website

<http://www.WIPO.org> World Intellectual Property Office official website

Appendix I

Interview for filmmakers who were disadvantaged by piracy

1. **What was the title of the movie you launched on VCD/DVD?**
.....
2. **How many copies of DVD did you order?**
..... Copies
3. **What was the cost of the DVD duplication?**
..... ETB
4. **How much was the unit price of the Original DVD?**
..... ETB a copy
5. **How much did you spend on the production of the movie excluding the duplication process?**
..... ETB for production
6. **How much did you expect to get from the movie after launching it in DVD? Considering the distribution and transportation (if any) cost?**
..... ETB of net income
7. **How much of the expected revenue would have gone to the government in form of tax**
..... ETB/can be put in percent
8. **How much of the expected revenue would have gone to the actors (if there is any agreement stipulating that).**
..... ETB
9. **How many original copies did you sell finally?**
..... copies
10. **Can you estimate your net income/deficit?**

..... ETB Profit..... or Deficit.....

11. How did the copy get in the hands of the pirates?

.....

12. Who do you think did the crime?

.....

13. Do you remember how you heard the bad news? Who told you that it was illegally duplicated?

.....

14. What was your first reaction?

.....

15. How much did they sell the counterfeited copies for?

..... ETBETB less than the legal price

16. Did you expect that it would happen when you decided to launch it in DVD?

.....

17. If your answer to the 16th question is 'Yes', then did you think it would be as bad as it turned out to be?

.....

18. Did you take the pirates to court?

.....

19. If your answer to the 18th question is 'Yes', what was the court verdict? Or final Sentence? Please state for how long if it is a case on trial process

.....

20. If it is still in trial process, what do you expect from the court?

.....

21. How familiar do you think you are with the Ethiopian Intellectual Property

Protection Proclamation

.....

22. If you produce another movie, will you launch it in DVD?

.....

State why.....

23. How do you describe the gravity of the movie piracy at this level?

.....

24. Do you think the stakeholders in the industry are cooperating to stop the problem?

.....

25. Are you a member of any of the filmmakers' association or of the Audiovisual Producers' Association?

..... **Why if No.....**

26. If your answer to question number 25 is 'Yes', is there anything your association did to help you overcome the problem? Please state if any – skip if you are not a member of any association

.....

27. If you are producing/planning another movie, did the prior experience affect your decisions regarding the quality of production? Please skip if not

Explain how if it did affect/is affects your decisions

.....

28. Anything you'd like to tell me that I have not asked you about?

.....

Appendix II

Questionnaire for filmmakers

This questionnaire is prepared to get information for a research project on the situation of movie piracy from a communication perspective. Please mark beside the answer of your choice or explain if your answer is different to what is provided in the multiple choices.

For clarifications you may contact Behailu Shiferaw at 0911 012292. Missed-calls are perfectly welcome; I will call back as soon as possible. If there are questions you do not have information about you may skip them. Thank you for your time.

1) A report compiled by the Ethiopian Intellectual Property Office in collaboration with Ethiopian Audiovisual Producers' Association shows that copyright owners of movies do not stand up to their rights when their copyrights are violated. The report goes on to say that copyright owners do not bring the case to the attention of the police and even when the EAPA opens the case, they do not show up at the court to testify. Do you agree with this?

Yes.....

No.....

2) If your answer to the above question is 'Yes' why is that?

a) Because we are not immune to the problem either (as we use songs/music without getting consent of the singer/musician).

b) Because we do not have trust in the legal system as far as the copyrights law implementation is concerned

If other, please specify

.....
.....
.....
.....

.....
.....
.....

3) As a filmmaker, who do you think should be in the forefront of the fight against piracy?

- a) The people
- b) The Filmmakers
- c) The Ethiopian Intellectual Property Office (EIPO)
- d) The Ethiopian Audiovisual Producers' Association (EAPA)
- e) The Police and the Court
- f) All have an equally significant role to play

If other please specify

.....
.....
.....
.....

4) Who do you think are the main culprits in movie piracy?

- a) The street venders
- b) Any music /film shop across the streets
- c) People who are established and well equipped only for this purpose
- d) The duplicators where we duplicate the original copies

If other please specify

.....
.....
.....
.....

5) Have you ever launched your movie in a VCD/DVD version?

- a) Yes
- b) No

6) If your answer to the fifth question is 'Yes', was/were your movie(s) pirated?

- a) Yes
- b) No

7) If your answer to the sixth question is 'Yes', can you specify the financial loss you suffered? Can you also state the number of original copies you sold comparing it with the minimum number of copies you expected to sell?

I lostETB as a result of movie piracy committed on my movie entitled because I only soldcopies while I expected to sell a minimum of copies.

8) If your answer to the sixth question is 'Yes', did that affect your later decisions in terms of production quality (quality of inputs you use in production)?

- a) Yes
- B) No

9) If your answer to the 8th question is 'Yes', could you please specify how

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10) Do you think the fact that filmmakers and other stakeholders in the cinema industry are not working together and that there is lack of communication among them has contributed to the growth of piracy in the country?

- a) Yes
- b) No

11) If your answer to the 10th question is 'Yes', how do you describe the effect of lack of communication and collaboration in the growth of piracy.

- a) It is the main reason-We could have stopped piracy at all if we had

communicated/collaborated amongst ourselves

b) **It is one of the reasons**-We could have at least lessened/slowed down the growth of piracy if we had communicated/collaborated amongst ourselves

c) If other please specify

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12) What do you think is the reason for these stakeholders not coming together and working towards their common goal?

a) It is because the associations and discussions in the past were not effective and because we don't expect a different result from the same process

b) It is because the filmmakers and others believe they can best protect and control their copyrights individually

c) It is because we believe association and committee related things are very bureaucratic and would not help us a lot

d) If other please specify

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13) Are you a member of any of the filmmakers' associations or the Audiovisual Producers' Association?

Yes No.....

14) How much did a filmmaker make after the screening is over for an average film?

Can you compare how much it was before the expansion of piracy and how much it is now (after piracy has become so wide a practice)?

Before, filmmakers made an average ofETB from VCD/DVDs, but now it is not more thanETB. Skip if you have no information about it.

15) Is there any point that is not included in this questionnaire but which you would like to comment on? Please explain it here

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Thank you a lot for the time you took to provide the information and for the honesty you showed during filling this questionnaire.

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copies?
e the same quality yet for less price

fine to buy to buy illegal copies

n at a convenient sales point such as on the street lights
go to electronic material shops

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to buy pirated copies?

vantageous for the filmmakers and the cinema industry to

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bove question is 'Yes,' please mention the major
g illegal copies.

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Appendix IV

Questions for street vendors

- 1) Do you sell pirated copies?
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- 2) Do you know it is illegal to sell pirated copies?
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- 3) Why do you sell pirated copies?
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- 4) How much profit do you get from a pirated copy?
.....
- 5) How much profit do you get from a legal copy?
.....
- 6) Would you sell only legal copies if the margin rate was similar to what you would get from the illegal ones?
.....
- 7) If no, why.....

Appendix V

List of informants

1. Tewodros Teshome, General Manager, Teddy Studio and Sebastopol Cinema; Actor/Director/Producer of *Key Sihitet*, *Fikir Siferd*, *Kezkaza Wolafen*
2. Zelealem Woldemariam, General Manager, Zeleman Production; Director of *The 11th Hour*
3. Tamiru Berhanu, Director/Producer/Actor of *Askerenu*
4. Nebiyou Engidawork, Filmmaker, Researcher and Secretary of Ethiopian Film Producers Association
5. Giroum Ermias, Actor in *Siriyet*, *8:62*, *Hermela*, *Yemoryam Midir*, Director/Producer of *Secrets Of The President*
6. Gezahegn Tadesse, Director and Producer of *Sewuna Amelu*
7. Henok , Director of *Yewondoch Guday*