

Payola in Jamaica: Illegal and Unethical or Standard Business Practice?

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At the Broadcasting Commission's Seminar on Payola and Anti-Piracy

held March 22, 2011

Background

Since the beginning of the Jamaican recorded music industry the issue of payola has been one of much controversy amongst broadcasters and music industry personnel. Artist, producers, distributors and even broadcasters have branded about accusations of corruption and illegality. Payola has been blamed for the deterioration of the standard in Jamaican music genres and the anemic growth of the industry. Arguments put forward also blames payola for promoting music of inferior quality at the expense of better quality music on the airwaves.

What is payola? And has it affected the music industry to the extent where these effects be measured with empirical data to back it? Payola is defined internationally as a radio station's collection of cash, kind or any other consideration, from anyone including record companies, producers or recording artists in exchange for airplay, interviews or general exposure or big up. The etymology of the word suggests it came from two words pay and Victrola which is the trademark name of the old record players manufactured by RCA Victor in the 1950s. The word became popular in the late 1950s and early 1960s after a series airplay scandal involving New York disc jockey and promoter Allan Freed who was fired from his radio station and charged

with over 20 counts of commercial bribery. Freed escaped with only fines and a suspended jail sentence. It was during this scandal that the US Congress made pay for pay illegal, Bill Demain notes

After Freed went down in 1960, Congress amended the Federal Communications Act to outlaw “under-the-table payments and require broadcasters to disclose if airplay for a song has been purchased.” Payola became a misdemeanor, with a penalty of up to \$10,000 in fines and one year in prison.¹

The term payola was adopted by the Jamaican music industry to describe the similar practice of paying radio stations for airplay. In the early days of Jamaican recorded music radio did not play any significant amount of nationally produced material. Radio was primarily reserved for British and American genres from classical to rock and Jamaican genres were viewed by the polite society as inferior and not worthy of airplay. The music of Kingston’s creative echo chamber was relegated to sponsored play and top producers got the majority of their airplay from paid programmes primarily aired during off peak time slots. However by the 1960s payola was such a problem that two radio personnel were fired due to accusations of pay for play. In the ensuing decades payola has been at the forefront of debates on corruption in the music industry. In a 2009 Jamaica Observer article, Chris Blackwell founder of Island records noted about payola:

A foolish record will get played and pushed if a man has money behind it. So that is the record you will hear every day, so Chris Blackwell will be thinking, What the hell (happened) to this music, man? The golden age is

¹ <http://performingsongwriter.com/alan-freed-payola-scandal/>

gone because the new number one record would be off-key in certain parts, the content has nothing significant.

In the same article singjay Wayne Marshall made these observations.

You have a lot of artistes out there that buss dem brain with good content, songs, melodies but never get the light of day because they don't have the juice to even burn 5,000 CDs to put out. He added: "But if you do the research you find that this man has a big drugs man behind his career and him pay people and get plenty favours. If you aren't talented it won't last but then if the money can last then (he will).²

These statements about payola have been echoed by the Jamaican industry as long as there has been the recording of music and relying on radio for promotion in the region. Based on my own experience as a broadcaster and record producer I can attest that payola is a major problem in the industry and has even spread to sound system culture and cable television in recent years. However to blame payola for the lack of creativity and low standards of the industry is to take the easy way out of a very complex issue which goes deeper than just airplay. Additionally, to suggest as many have done, that payola is the main reason for the corruption in the music industry is problematic. Firstly payola is part of broader problem of corruption in the wider society; one can only has to look at society in general to see how business is done to understand that corrupt practices are evident in both the private and public sectors. The evidence suggests that this is the way business is transacted in Jamaica; Transparency International ranks the Jamaican public sector on their corruption

² <http://rockjamaica.wordpress.com/2009/06/12/chris-blackwell-wayne-marshall-say-payola-ruining-jamaicas-music-biz/>

perception index at 87 and give a rating of 3.3. This data suggests that we are still a very corrupt nation. Based on the level of lawsuits and arrests for crimes such as larceny and fraud the private sector enjoys no better position. Hence payola is part of a national problem and cannot be tackled in isolation. The recent moves by the Jamaica Broadcast Commission to tackle the problem of payola must be commended because this the first time in recent memory that this issue which affects the way the entertainment industry operates has been officially addressed. Dr Hopeton Dunn chairman of the Broadcasting Commission is quoted in the Jamaica Observer as saying

Payola is a criminal offence and the law enforcement authorities should be called in to take a serious look at kinds of actions which have serious implications for a level playing field in which many people are being disenfranchised and discriminated against.³

However any attempts to make payola a criminal offence without looking into other mechanisms to counter the practice I fear might not have the desired effect of curtailing the practice. Question arises as to who will be charged for engaging in payola? Will the individuals who pay and the persons who take the bribe be the offending parties? What about the radio or television station and its management and owner? While punitive sanctions can be part of the mix of measures, to focus on this alone would not solve the problem. This might well force broadcast media to increase disclosed payment for playing records which will disenfranchise many performers and producers who might not be able to afford paying radio and television stations disclosed payments for playing songs and music videos. Payola legislation has to be

³ <http://www.jamaicaobserver.com/news/Broadcasting-Commission-moves-to-stop-payola>

complemented with a menu of measures which will ensure that the new laws, if passed by Parliament, do not suffer the same faith as other laws... passed but never used. Let's now look at some areas, which have to be addressed to ensure that payola is reduced and eliminated.

Close attention should be paid to how radio and other broadcast entities operate and the implementation of regulations and guidelines for music content must be ensured. Management at most radio stations have done a terrible job of managing music content for stations that rely heavily on music. In many cases there is no emphasis on regulating the music content and while some stations have programmes managers or its equivalent, very few music oriented broadcast firms employ a music director. The music director can be defined as the person

Responsible for interacting with record company reps, auditioning new music, making decisions (sometimes in conjunction with the Program Director) as to which songs get airplay, how much and when. The Music Director devises rotations for songs and at most Radio stations today, programs the daily music through specialized music software made just for this purpose.⁴

This is a critical function that has generally been ignored by broadcasters in Jamaica, who focus more on personalities to drive listenership and viewership. With more regulation and effective management on the programming end, it has been proven that incidents of payola can be significantly reduced. While acting as programmes manager of Irie FM there was the introduction and implementation of play-lists,

⁴ <http://radio.about.com/library/bldef-21.htm>

power play lists and quality guidelines, that while not eliminating payola entirely, reduced its occurrence to minimal levels. Similar results were achieved in the initial stage of Zip FM through a similar strategy. While these measures are not a solution to the problem of payola, they certainly can make the playing field easier to navigate and increase the possibility of detecting the payola practice.

The second strategy involves the process of music appreciation, a critical factor in enhancing the creative city that is Kingston. As a creative city and milieu, we have done a poor job of educating our audience and music consumers how and what to listen for in a space that is so defined by music. This can be achieved through the media and the educational system this will necessitate a 180 degree change in attitude towards the creative industries at the public and private sector levels. It must be the consensus in the society that we are going to focus on the creative energies of the country to drive our economic sustainability.

We must also accept the fact that payola while a problem is not the primary dysfunction in the entertainment business. We must be careful of allocating scarce resources trying to solve a problem that is becoming more and more irrelevant. Many researchers and journalists still talk about the dancehall generation who are the main consumers of pop culture, but I have a different opinion. I believe we are now in a generation that I call the *Gen- Tekk -Nation*. These are individuals between the ages of 15 – 40 years who are totally immersed in technology. As such their lifestyle and belief system are intertwined with cell phones, laptops, video games, text messaging, E-mails, Facebook, Blackberry messenger, iPods and iPads. The *Gen- Tek- Nation* does not rely on free to air broadcasting or major record companies in North America to determine what they listen to and view. Technology and competition have created a

paradigm shift that put traditional broadcasters at the lower end of the “cool and hip” totem pole. YouTube, Facebook, Last FM and the website Outaroad.com are the preferred choice for this new generation and for an ever growing over 40 years old group who, like myself, are desperately trying to remain informed and current. A primary reason for this shift is the choices presented to the consumer. You listen to what you, when you want, and there is less need to switch the dial because of some horrible payola influenced or marketing driven artist or song.

The *Gen- Tek- Nation* are making their own choices evident in the explosion of new talent that have come to the fore through what is now called alternative media prime examples of this new trend are Jamaican artists such as Konshens, Cezar, Tami Chin, Protégé and Tiana. It is questionable if so many new acts would have emerged through traditional broadcast media. A song of poor quality will remain just that, no matter how much is paid for play. As such consumer support will most often be limited and the argument that payola promotes poor quality at the expense of good artist and songs is questionable as this presupposes that producers of good quality song don't engage in payola As Daniel Gross notes about the American reality

Sure, marketing blitzes and intense radio campaigns can help push undeserving artists onto the charts. But music today is pulled by consumers far more than it's pushed by conglomerates. Technology and competition have liberated listeners from the clutches of bad Top 40 radio.⁵

In concluding I want to note that the *Gen-Tekk-Nation*, the main consumer of pop culture, will never rely entirely on traditional broadcast media to determine what they listen to and accept as art. In fact they have squarely rejected attempts to force payola-

⁵ <http://www.slate.com/id/2123483/>

influenced artists and content on them. On the other hand they too have fallen prey to the marketing blitz of a more deserving artist but one can argue the point that this is a matter of unfair competition than a matter of being exclusively driven by payola. The role of broadcast media in promoting Jamaican music genre is spotty at best and while it has played a role, the evidence suggests that many Jamaican recordings which are now considered classics, at no time enjoyed any steady rotation on radio and was never placed on any of the many media record charts. Thanks to the sound system and in earlier periods the juke box Jamaican genres were promoted and the following song emerged as classics. Songs such as Here I Come - Dennis Brown, Fade Away - Junior Byles, Under Mi Sensi - Barrington Levy, and Bunny Wailer's Fig Tree never had any consistent airplay and never made it to any music chart.

In this context with a prevailing culture of corruption which is not being addresses sufficiently in some areas of the private and public sectors, the emergence of the *Gen-Tekk-Nation* operates in a more democratic milieu resulting in the continuing decline in the monopoly status of traditional broadcast media. The question is, do we need to criminalize or do we need to educate regulate and manage more effectively?