

TOWARDS A CODE OF ETHICS IN MUSIC: ISSUES IN EDUCATION, MUSIC BUSINESS AND INDUSTRIAL PRACTICE

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Abstract

Issues of professional responsibility within the music industry is not a new phenomenon but industry events to date point to a lack of understanding in relation to rights and duties between contractor and contracted, between participant and performer, and between producer and distributor. A way to negotiate increasing misunderstandings is urgently needed. This article approaches the question of ethical behavior in music as a general urgent need to redress the apparent imbalance within individual working environments, specifically between consumers and customers. Contractual bases of protection may not adequately meet this need and the transmission, reception, dissemination and delivery of music in all its forms may require a code of ethics which is lacking in Malaysia. At minimum, policy considerations should be enshrined in a universal document for the understanding of all to ensure the secure workings of the music industry.

Keywords: Code, ethics, moral, law, regulation, music industry

Introduction

In Malaysia, the applications of a code of ethics upon musical events or dealings are limited. In the areas of teaching, construction and engineering, manufacturing, banking and commerce, finance, law, policing, sports, medicine, complementary healthcare, software engineering, securities regulation, directorships and business, restaurants, libraries, advertising, journalism, direct selling and entrepreneurial activities, there are already many codes of conduct or ethics and regulations to cover many aspects of those endeavours. In fact almost all aspects of society, government and professional business in Malaysia have some form of behavioural code or ethical aspect to their function.

Most people find the process of studying, performing, writing and listening to music is as important as their religious duties. The individual's right to this is sacrosanct and apart from the most unfeeling among us, all accompanying tasks are duly given high regard. Ethical problems necessarily arise between musicians, within institutions of higher learning and embellish the many daily transactions within industry organisations. We are at best unsure of our rights, duties and responsibilities and wash over them often leaving the other party wanting and dissatisfied with their sensibilities violated, with nothing more to show than emotional wounds. What is the 'right thing to do' in any given time or situation is left to experience and for the unethical among us, it does not matter (Burgess 2007 p.1). That it strikes a chord with some of us does at least make it an interesting path of enquiry.

There is a burgeoning minority that would argue for the existence of a code of ethics. Not merely because of the need to regulate some transactions but also as a way to safeguard future dealings when similar situations arise. That is, a guide for reference which will assist us in delineating acceptable behaviour in any given situation. This is better than merely resorting to doing what we think we should be doing, which might not satisfy everyone but could also lead to irrevocable disaster especially so when musicians and people dealing with music and their products conduct their affairs. Occasionally, ethics overlaps with morality in some instances and it is not easy to draw a distinction between the two. In addition, ethics may impinge on legal boundaries so as to make legal sanction a more appropriate method of deterrence (Colero 1997).

Often, however, official remedial declarations should stay within the realm of contractual disputes and should not fall within the range of certain behaviour. Nor should it even be used as a tool for adjudication where misunderstandings occur. Self-regulation is the mainstay of the music industry, and if we take music education to be at one end of the spectrum and place popular culture at the opposite end, we find an array of different experiences and ethical treatment to the whole business of music making. There are many examples of issues of musical ethics arising between these two areas but they are rarely discussed in such a broad scope. Most of the debate surrounding musical ethics is concerned with the business of commercial music or ownership of intellectual property. These notwithstanding, an awareness of musical ethics or an ethical music doctrine does seem to exist. If we explore deeper, more examples and situations of questionable ethics come to the surface.

The closest Malaysia has to approaching a code of ethics for musical dealings is provided for under the Malaysian Code of Advertising Practice 2008, where Article 8 specifies that use of music or sound effects to other advertisements should not be so similar as to be likely to mislead or confuse.² Another attempt seems to be in the form of a general dress code policy guideline for performances by foreign acts so as to safeguard the sensibilities of local tastes. There is also a ban on profanity and other physical or lewd conduct by the Ministry of Culture, Arts and Heritage.³ The Policies for the Strategic Development of the Music Industry in Malaysia 2005 also lacks a section on ethics and a code of conduct does not seem to exist in the document. What it does have instead recognise the need for a centralised law that governs activities in the music industry and that a central management impetus overseeing the functions of the industry is lacking.⁴

In some of the examples we put forth in this article, it may seem appropriate for some level of control or regulation where there is an event or occurrence that has somehow affected another person's welfare. Some argue that a code of ethics would make life much easier at the very least bringing attentiveness and prudence to music making endeavours. Within the broad spectrum mentioned earlier there is certainly room for a code of ethics that governs the conduct of those working in the industry in the normal scope of their daily activities. One of the problems associated with this is that a person may not realise when matters pertaining to his job may have moral or ethical implications. An ethical mindset is far from his consciousness as he goes about his business unaware of the shortcomings of his actions. It is not merely that we wish to sanction all music making activity that goes unabated in its metering out fun, frivolity and unfettered entertainment for the masses.

The purpose of this article is to attempt to centralise some of the ethical situations, actual or hypothetical that may arise during music making activities within the broad scope mentioned earlier. It attempts to come to a standpoint and a general understanding of where we are in terms of establishing a code of ethics for music in Malaysia. It is also an invitation to interested parties to seek agreement among music professionals as to the content and interpretation of such a code. The need for a code is discussed, as will be its role in the creation of musical works.

Some Definitions

What is Ethics?

Ethics is defined by Merriam-Webster as the principles of conduct governing an individual or a group.⁵ Another definition of ethics would be the rules of conduct recognised with respect to a particular class of human actions or a particular group.⁶ Therefore a code of ethics would consist of a single class of human duties in which actions are measured against a set of acceptable parameters defining individual duties. The effectiveness of such a code would largely depend on the extent to which managerial units supports them with sanctions or rewards. Watchdog bodies that monitor within a particular organisation can appropriately punish using certain laws or regulations where violations occur. However these should not be so punitive as to hamper freedom of activity or stifle creative output. It should encourage and promote these elements. Hence a code of ethics that is correctly built around a set of activities governing human endeavour must be pragmatic and hence necessary to its role in fostering growth within particular industries. They differ from the moral codes that apply to a society's culture, education and religion but could be some derivation of those.

Extreme care must be taken in formulating a code of ethics in terms that are too wide, otherwise criminal activities may also be encouraged within that code, officially or unofficially; for example with ethical hackers, which is an anomaly unto itself (Warnick 2004 p. 271). A code of ethics is a way to tell others and to remind people within the same industries, of who they are and what they believe in. However, this can be difficult to agree upon especially where activities are wide in scope or where single communities do not receive member support of the right kind and also where industry bodies continually disagree or where leadership is weak.

Ethics and its relationship to law, morality and regulation (in relation to conflict)

It is said that ethics is the science of morals and morals are the practice of ethics. This is not a helpful statement since it is possible to act morally without understanding ethics and to claim to be ethical while acting immorally.⁷ Morals is akin to a belief system and ethics is acting upon that belief should the need arise. Ethics is a process that occurs gradually and we argue here that recourse to it can be had in the absence of regulations and laws governing a particular subject as for example at the onset of new societal behaviours brought on by changes in technology or science (Easley 2005, p. 167). It becomes useful to have a set of ethical procedures as a guide where certain problems arise that were not anticipated by certain codes of conduct or explicitly stated

in laws or rules. Being ethical, is understanding the right way to behave that respects the rights and needs of others and to think about consequences when putting oneself in another's place instead of imposing values onto the world. In times of conflict we employ judgment in the assessment of situations and outcomes of action or inaction or balancing the claims of others with the needs of the many. Ethics assists us with the choice of appropriate action in any given circumstance and morality guides us in following ethical procedure.

Personal, professional and global ethics in (relation to conduct)

Personal ethics are those that take shape at younger age. Playing fair, being on good behaviour, not telling lies or cheating are some of those qualities. This spills over into professional ethics whereby client-centric interests are protected. One so equipped conducts their business in an honourable way without putting their own interests before their clients. These and more virtues are at the center of a more uniform global ethics that dictate the way to justice, social responsibility and international well-being (Colero, 1997), (Murphy 1999, p. 109).

Ethical requirements can fall on either side of the scale regardless of party involved. In some of the following examples we draw reference to situational ethical challenges that fall within personal or professional ethics, ethical practices within the music business, and ethical events that touch upon legal or regulatory specifications.

Music Education

The teacher-student relationship

The situation in relation to the conduct of music teachers towards students gives rise to possible issues of ethics amongst the many other legal or moral implications of such an arrangement. We look to the teacher as the provider of knowledge and to the student as the receiver of knowledge but beyond that there is little to give us concern save for the instances where, especially at the more expensive educational establishments, students 'expect' to be given the knowledge, since they have paid for it, instead of finding it themselves. The ethical issues highlighted here are varied but in this instance reveal the need for balance between the unethical stance of *spoon feeding* and the slow process of imparting learning skills upon students (Siti Akmar, Kamaruzaman, Abu Daud, 2009, pp. 83-84).

Another example is performances of music composed by the student which the teacher might dabble into being recognized as co-composer; where the teacher only chooses the best most talented student that 'actually has potential' and not behave more universally in their music-for-all ethos, even among the tone deaf; also where teachers pass 'favourite' students in situations where the student clearly falls short of the required practical levels; and where conductors mistreat principle players badly due to their own personal issues of insecurity (such as not actually being qualified enough to conduct); or where members in the same section of the orchestra make lives difficult for one another, something that you would think surely does not happen in professional fields. All these and more highlight a need for a code of ethics and conduct that would make life a little easier. What is hoped is that these events do not find themselves relegated merely to common sense judgment.

Audiovisual documentation of musical culture and consent

Most situations involving permanently storing sounds, images or video recordings of individuals raises questions of our right to make recordings of people for commercial gain, be it to study them in a sincere manner within parameters adjudicated by science, or where there is a *cultural raping* of ideas from people performing in video documents. There is also an ethical dilemma as to how we approach such recordings and the re-telling of the cultural output of particular peoples such that we do not merely tell their story or attempt performance of their songs from the standpoint of the viewer. Ethical issues of identity and authenticity abound and fall to scrutiny here. Indeed this has bearing on world music education and music courses would be wary of this for fear of giving students concepts of truths in music that are one-sided. (Laing 2008, p. 227)

Copyright and consent

Perhaps most controversial of areas and one which causes ethical conduct to stray into legal areas more than any other since digitisation technology surfaced, is the question of copying creative works and the granting of rights and consent to copy or exploit.

File sharing of musical works (digital commodities)

Peer-to-peer exchanges of copyrighted works in video, images and music has been at the forefront of media attention and litigation for more than a decade, the technology of digitisation and copying itself has been available to the masses for the last 20 years or more. Financial, legal and business implications arise as the pervasiveness of file sharing has not really been arrested but merely slowed by litigation and campaigns to crack down on file sharing (torrent) sites worldwide. But this is only in the United Kingdom or United States. Elsewhere in the world it carries on regardless of any pressures placed upon local governments to stem it from spreading further (Singh, Jackson, Waycott, Bekhuyzen 2005, p. 62). Accession to treaty or member governments' adoption of recommended laws also seem ineffective.

Our argument here is one made in the beginning of this paper; if people are not afraid of legal sanction, or where legal sanctions have no bite or are insufficient, might a campaign of ethical awareness deliver some chance at raising awareness of copyright concepts and the need for content creators to be paid for their work instead of it being stolen from them wholesale? (Gurlich, Turner and Gopalan 2007, p. 3)

Record companies are eager to sue to exert their members' rights over their music and recordings. This in itself raises moral and ethical dilemmas where court action reduces artist loyalty levels, and it also makes people buy less CD's and increases digital downloads from illegitimate sources. Be that as it may this method of sanction has had mixed results and there is evidence on both sides of the fence to show that suing people does hurt the music industry (Easley 2005: 165). Some though, view music piracy as justified if it has an overall beneficial impact on society as a whole, for example, by providing people with greater access to artists' music, thus benefiting the majority of consumers by delivering free music and listening pleasure (Firestone and Mitchell 2004, p. 122).

What is clearer is that if record companies had the ethical stance of looking at their business models and made adjustments for digital downloads including content transmitted via the Internet instead of suing individual people they would have had an earlier chance of recouping alleged losses due to illegal downloads. This is something that Apple Incorporated has spearheaded with their iTunes download site and they remain number one at least in this game. This paradigm has, only within the last 3 to 4 years caused record companies to finally shift their business ethic. In Malaysia, telecommunications company based ringtone and music download sites such as DigiMusic and Channel X (Celcom) including broadcaster Media Prima Sdn. Bhd. owned GuaMuzik.com.my, follow Apple's lead and stand in direct competition to free subscriber based illegal download sites such as Jiwang.org, MP3Raid and database site Lineclear.com (Shang, Chen, Chen 2008, p. 361).

Youtube.com - cell phone videography and consent

Most cell phones are equipped with lenses that rival dedicated cameras and have the capability to record and edit video. Current models are capable of capturing high definition video at up to eight or more mega pixels of resolution. These videos are then editable and instantly uploaded to Internet sites such as *YouTube* or *Facebook* using the same phones they were taken with. Here is an instance of ethics overlapping with the law. On the one hand we need to seek the permission of the person being captured on such devices before placing their pictures or videos on the Internet for the whole world to view. And on the other hand this is made a subject of legal sanction in Section 16A of the Malaysian Copyright Act 1987 (Act 332), which states; the performers' right shall be the exclusive right to control in Malaysia, communication to the public of a live performance⁸, the fixation of an unfixed performance⁹, the reproduction of the fixation of the live performance that was done without the performers consent¹⁰, the reproduction is made for purposes different than that which consent was given¹¹. The section applies for sound recordings or film and excludes situations where the recording was done for private use, for scientific research, for news reports, criticism or review or in furtherance of legal proceedings.¹²

The upshot here is when capturing a musical performance directly by recording to video any part of that performance; it will fall under the section because consent has usually not been gained and there is a communication to the public by placing the video on the Internet. Accepting that the section was primarily aimed at preventing non-commercial exploitation of recorded material in a manner so as to promote business and increase visitations to stores, it nevertheless does apply in the case of a casual recording made by people in the audience. Consent has to be gained be it verbal or written as without it an *invasion of privacy occurs* and is actionable in *tort*.

In the main, your ethics will determine how you handle this situation since many are blissfully unaware of the laws and how far they will fall foul of the legal sanction placed within. Persons made the subject of those videos are probably also unaware that they have been so recorded and do not avail themselves of protection of the law when so exposed. Only when they discover their antics have been transmitted online publicly for all to see will they suddenly gain a moment of sanity and may regret their actions. By then it is probably too late.

Sampling

Digital appropriation of text, narrative, images and music within cultural industries and its legal implications has been widely and deeply discussed over the years. Sampling the works of others be it works out of copyright or works from primitive cultures used to create new works or rearrangements of works created from borrowed elements raises ethical questions too, ones of consent and also morality. For music, merely confronting this issue legalistically is to ignore the fact that it possibly teaches and transforms the act of borrowing into the act of stealing, albeit digitally. Questions as to the originality of a piece of work are highlighted. Some would argue that all art is borrowed, so also new music, which is essentially an amalgam of music that has gone before in bits and parts. For example when a painter makes references to past masters or makes comparisons with their peers; so also composers of music pay heed to history to master past techniques in order to forge new ones. One musician will move forward to create something new that others will adopt creating a mix of different influences. Such is the case with sampling (see McKenna, 2000, online article on the legalities of sampling)

Where do we draw the line? It is accepted industry practice that an excerpt of music which is sampled; one that is more than a mere fragment of melody or an instrument sample; when used in a recognizable and substantial way in new music by the second composer, the first composer is then owed some kind of payment and recognition for the original material used. Copyright clearance is sought from the owners of the song so sampled and sums are negotiated and exchanged. (Frith 1988, pp. 66-67).

One of two things may then happen. Negatively affecting matters is when the original composer may charge highly for that excerpt or in the positive, it may bring a rare original to light for a new lease of life making people aware of its existence and spawning further creativity which in turn fuels greater industry and business. How is the necessary ethic defined here? One assumes the first composer should have the ethic of not charging a princely sum for their original thus allowing the second positive outcome to occur but in between there is a need for balance. Malaysia's own rap group 'Too Phat' records using samples of traditional musical phrases from songs such as *Anak Ayam* and *Ala Canggung* have not caused too much controversy. The group have also sampled Biz Markie's *Just a Friend* and it would be interesting to guess how much Too Phat paid for the sample which was used throughout their version.¹³

Musicians Ethics

Musicians are those artisans who deal with the art and science of sound in all its forms. They create music by writing scores to be performed and recorded by other musicians or by arranging individual sounds together using electronic means to create songs for private playback or broadcast. They are sometimes prevented from doing these acts by government, community or corporate censure. This involves restricting the usage and access to musical works in some way or form on grounds of politics or religion. Music is censored because of government prohibition, public outcry or is outside the scope of permissible private use. What it boils down to is that some standard or belief is threatened by the performance, publication or distribution of music that leads to its use being controlled. Here, ethical calls for censure may overlap with moral, religious as well as legal edicts.

Censorship

In Malaysia music censorship is not a new phenomenon. Within the last decade many acts have been proscribed or banned for certain periods following government intervention after Muslim community outcry in relation to acts being imported to perform in the country. Governmental restrictions include conditions on artists' immodest attire and banning certain provocative movements on stage for fear of the inherent immorality that could play on the minds of younger members of the audience. Others include banning musicians from performing in Malaysia due to associations with alcohol and beer.¹⁴ However, decency laws in this regard seem to have been relaxed when the government realised that allowing acts to perform in the country boosts tourism. Also, entertainment and events organisations would not risk bringing in high profile international artists if they doubted that they would be able to sell enough tickets to make any profits. Cultural reasons could also be factored into the equation when we come to realise that our own Malaysian acts mimic to some extent the frivolousness and provocative antics of Western artists. In 2008, Faizal Tahir was banned for three months after he simulated various stages of undress on stage and actually removed his shirt live during 8TV's anniversary concert. The station was also subsequently banned for three months for not complying with conditions for live and delayed telecast.¹⁵ The bans have since been lifted and Faizal Tahir's popularity has not waned in the slightest.

Offensive Lyrics or Music

The need for an ethics code in relation to offensive lyrics is not just a concern in Malaysia but also in other countries.¹⁶ This occurs less with music written in Malaysia and sung in Bahasa Malaysia than with music from overseas sung in English. There also seems to be no issue with music sung in the many other languages spoken in Malaysia. It could simply be that any profanity using these languages is not brought to light. Recent censoring of songs containing offensive lyrics sung by western artists is done by AMP Radio Networks and include Lady Gaga¹⁷ and others.

Industry practice

The recording, production and live music performance industry

The music industry is a never-ending mix of relationships that intermingle and intertwine causing a lot of rights and duties to be missed or confused sometimes. The prevailing situation is that people are simply not aware and this is something that affects new and old entrants to the industry. Everyone seems to know about copyright, since it is a perennial issue affecting Malaysia who is being constantly observed by the International Federation of the Phonographic Industry (IFPI)¹⁸ but not everyone knows about contractual bases in professional relationships, when they arise and what to do when matters go wrong. The work ethic of the industry is based on simple contractual obligations. A piece of music or album is commissioned, samples and demos are made, a price is agreed upon on a per-contractor basis, a small percentage of the price is paid up front to ensure the parties commit, the production continues and is varied as the product progresses, when finished the final percentage of payment is made (occasionally in cash) and the product is delivered in an agreed format barring any changes or adjustments

made to the final version. It sounds very simple and is a very common model. What is at stake are individual reputations and that is a highly valued commodity in the music world. If a producer is known for his good work it is highly likely word will spread and he will receive more commissions for musical products.

Different producers work differently and have different methods but it is those that take care of professional client relationships and build a strong work ethic which people respect that will gain the lion's share of the work available. Problems though, can arise in a few different ways. This is usually when one party does not understand the needs of the other. Creative people tend not to be the best communicators and it is surprising to come across in the music industry especially; they may know how to produce art, but are not so adept at talking about it. They only let their past work speak for them and clients lock onto what is appealing and specify requirements based on this. Somewhere, negotiations and expectations differ and miscommunications occur. Payments are withheld and parties feel aggrieved and agitated at one another. Major portions of the work are already done but specifications change and sometimes not needed any more. Reputations begin to erode and the music industry suffers the brunt of unwanted gossip, ill-feeling among its members and market development slows. This is one such example, there are other situations giving rise to contractual duties, most often verbal promises that turn out sour.

In the live performance arena similar situations arise where musicians contract for work on a word of mouth basis forming agreements verbally and in reliance upon recommendations and the reputations of others. The largest complaints here are that payments made after the performance was executed are late, the amounts promised were less than that delivered or that payments are not made at all for reasons that are not clear. This causes musicians to adopt sharp business practices of a survivalist nature, cutting up other musicians by side negotiating with parties specially if they are known, denigrating their peers, choosing the most lucrative and best paying engagements when they have already promised to perform at another less paying gig or asking for unreasonable amounts to be paid in full, just minutes before they are due to perform. Yet another example is when the flow of payments passes through many hands by agents who 'take' additional sums over and above that allocated calling it 'management fees'. Practices like these and others bring the music industry into disrepute and trust becomes merely notional. Some venues contract on a weekly or monthly basis engaging ensembles or solo pianists for example on short term work (3 months) because the market is so volatile; employers never know when musicians are going to run, substitute themselves for other musicians at no notice to the venue managers or display other such unethical behaviour while engaged.

What a code of ethics can do to assist parties in negotiations

A code of ethics can inform and guide parties as to their rights and duties in relation to engaging freelance work independently. It need not be too detailed but at the present time there exists no standard format for contractors to be tied to each other on the basis of minimum obligations incumbent upon each party. All verbal communications could be part of a simple document to make sure everyone knows what they are supposed to do, what work is promised, the nature of it and what payments can be expected in relation to that work or variations of that work. In Malaysia this has not been thought

through and terms such as these only appear when one party is 'invoiced' for work done. The *invoicing* culture for creative work in Malaysia could be developed further into one where the very terms appearing on that document could be extracted to form the basis of a simple binding agreement between the parties. In the case of recording and production initial discussions that are verbal can be written on a document that forms the basis of a binding agreement and can be served on each party. This serves as a reminder as to each party's needs and obligations to the contract and could include additional songs, re-arrangement fees, extra production fees, additional recording fees and further studio bookings if further adjustments to the song(s) or soundtracks are required etc. A code of ethics could also help enshrine professional behaviour and define acceptable conduct of musicians in relation to live music performance and also the people paying for that performance. It could assist in defining rights and obligations in relation to bookings and cancellations, reservation fees for bands and singers, minimum wage payments for different levels of performer and also explain contractual bases of verbal engagements for live shows, big or small.

Competition Rules versus Industry Ethic

Ethical considerations also arise on an industry level in relation to how media conglomerates run their music business operations specifically geared toward supplying music and musical products to radio and television broadcasters. The concern is with monopolistic formations that erode the integrity of the market by sidelining independent producers trying to make an honest living. This occurs when all demands for background music, cued music, soundtracks and other uses of music in video clips for episodes or features, are produced within the purview of the station itself. Indeed, companies and production outfits are formed belonging to a larger entity financed and manned by personnel all belonging to one organisation. At the moment, giving the job to an internal group to work on is not illegal. It could simply be unethical.

Some argue this is an easier mode of business in that it lends to efficiency of production and economies of scale this is true to some extent especially in an environment such as Malaysia where the music industry is not as stable and predictable as we would hope. Independents argue that the creative industry requires different producers who will lend variety and add flavour to a growing industry. What is clear is that music used by stations and production houses sometimes sound as though it is canned and either uses music already recorded (giving rise to licensing rights) or if an original soundtrack is commissioned the hunt for a good producer then ensues. What is needed is a balance to ensure fair distribution of work among industry independents and also that entertainment needs are met by giving variety and quality to the listening public. The new Malaysian Competition Act 2010 which comes into force on 1st September 2012 may go some way in alleviating some of the issues above.¹⁹ The Act comes not without its own set of controversies and took 15 years to enact. Interested parties remain doubtful at how business will change after this Act comes into force,²⁰ but it could make previous unethical situations, anti-competitive.

Recent changes to regulations involving radio broadcast could also work to revive an ailing music industry. In the past, outmoded business ethics adopted by radio stations such as selective airing of tunes and dictating what should be recorded by local artists, have resulted in local music not being promoted enough. What is heard on the airwaves

is foreign, Indonesian or Western fare that radio station chiefs say are what the audience want to hear. In truth it is radio that has been deciding what the public want to hear. In response to this, a directive was made under Section 33 of the Communications and Multimedia Act 1998 where, the Minister for Information, Communication and Culture is at liberty to modify or vary the special conditions of an existing licence to broadcast.²¹ Under this power, a Compulsory Broadcasting Guideline For Local Malaysian Songs At Public and Private Radio Stations was issued. The guideline recognised the need for all parties in the music industry to come together; composers, artists, recording companies, retailers and radio stations; for the betterment of the music industry.

Crucially, the guideline also issued a directive so that any new songs approved by an elected panel will receive airtime of between three to five times a day over a 30-day period subject to the concept and marketing conditions of the radio station in question. It is still too early to assess to the effectiveness of this directive and some are still skeptical about it how business will change following its introduction.

Towards the formation of a code of ethics

A code of ethics for music should contain its own set of rules for each discipline and sub-discipline and should be cognizant of this. It should be simple and not complex in its design, and therefore easy to understand. It should cover in broad detail those aspects of music making activity which are pertinent or are particularly focused on recurring problematic events. It should be in plain language and not legalistic in any sense. It should not assign rights and obligations per se nor should it be punitive or punish in a draconian manner. It should instead be formulated to create duties and awareness in a humanistic sense supportive of the growth of the industry as a whole. What follows from this is that it should be drafted, agreed upon and ultimately adopted by members within the industry of music and also be monitored and enforced by them. A mechanism should be in place in support of the operations of such a code, necessitating the establishment of a governing body which oversees its operation.

What scope would a code of ethics in music cover? Should the code remain unwritten or do we need it as a mere reminder? Will it raise contentious issues or help to solve them? Is it binding in some way or does it have force of law? Will people respect it or will it be disregarded? Will it remain merely a notional set of rules that people feel they do not need to follow? Who enforces this code? Does it cover communications between two parties or more? Will it govern the relationship between performer and audience for example? Who would be authorized to exert authority over this code? Will the code evolve, change and adapt with the progress of time or will it remain stagnant? These and other matters are the pressing questions that must be answered before drafting a code of such a nature. Existing bodies constantly argue amongst themselves and devote time to the membership of multiple associations that seem to perform the same function.

The five main bodies vested with the ability to do this are the Malaysian Music Council (MMC), Persatuan Karyawan Malaysia (Karyawan), Performers and Artists' Rights Malaysia (PRISM), the Recording Industry Association of Malaysia (RIM) and Malaysian Authors' Copyright Protection Berhad (MACP). Their collective sole purpose seems to be increasing their membership, the collection of royalties and the protection of their members rights in addition to issuing licenses and monitoring music usage at

particular venues. The future of the music industry is always last on their list of matters to address and while they are distracted with other matters, questions of ethics and the survival of do not arise and do not receive a proper airing.

Conclusion

The situations as discussed above bring us to a point of realisation about the realm of ethics and 'good behaviour' as it pertains to the sphere of music. Having said this it is not meant to exhaust the subject matter altogether by bringing every possible exigency to the fore. This is not what this paper is about for the reader will probably be aware through experience or otherwise of many other situations involving questionable ethics in musical fields. This paper attempts to highlight the need to respect the many facets of music making and show that in some situations people may be hard pressed to find a way of dealing with matters which bring out the best outcome for all. What is clear is that where there exists a rule or regulation that people might not adhere to, at the very least there should be a guide or code that governs what they might do should dealings go bad. A few lines of guidance as to how proceedings should be conducted; how one conducts oneself to bring a positive outcome to matters is surely better than a set of regulations or laws agreed upon by a ruling elite that is out of touch with reality and leaves parties wanting. Sadly, this is not paying your dues. Instead this is being due a payment and perhaps never receiving it or not receiving enough remuneration for musical work done.

It could be that music in Malaysia has not gained a level of universal acceptance and respect thus deserving of ethical, moral or legal promulgation. Is it that music in Malaysia is not really viewed as a legitimate profession, the preserve of rogues and charlatans alike as musicians are judged by the company they make? Do we relegate all musicians and music support activities to such a role therefore being in dire need of operating criteria and guidelines due to the inherent potential immorality or deviancy within? It may not be necessary to capture and pay heed to every nuance of human interaction in the performance and making of music in the instant case, but with respect to the creative industries as a whole and for business ethics, it is credible and wise to have a code. And, we would argue on a policy footing that a code which encompasses all the creative industries should be one with the necessary standards, criteria and guidelines pertinent to it. Society can take some steps to learning ethics through the appreciation and participation in music as this supports the argument in developing countries where culture is deterministic of an advanced nation status. Music and its supportive businesses effectively communicate social norms that have challenged social, political, religious ideologies, gender and individual rights (Golden 2001, p. 2). It could be that the time has come for Malaysians to move from a protectionist outlook to one based on healthy competition and a respect for rules.

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Notes

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- ³ Leo, Christie, Oct 7, 2007, Malaysia Stands Firm on Dress Code for Performers, Reuters <<http://www.reuters.com/assets/print?aid=USN0736418620071007>> (retrieved 18th December 2009)
- ⁴ Dasar & Strategi Pembangunan Industri Muzik Malaysia 2005 Kementerian Penerangan Komunikasi dan Kebudayaan <http://www.kpkk.gov.my/pdf/buku/dasar_industri_muzik.pdf> at Chapter 4, Sections 9 and 11 respectively.
- ⁵ Merriam-Webster at <<http://www.merriam-webster.com>> (retrieved 23rd August 2011)
- ⁶ Online dictionary at <<http://dictionary.reference.com>> (retrieved 23rd August 2011)
- ⁷ Ethics and Morals at <http://www.paytonpapers.org/output/ESS0039_1.shtm> (retrieved 23rd August 2011)

- ⁸ Section 16A (1)(a), Copyright Act 1987 (Act 332)
- ⁹ Section 16A (1)(b), *ibid*
- ¹⁰ Section 16A (1)(c)(i), *ibid*
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