

# NEWSLETTER JULY 2017 IFPI

## LATIN AMERICA

### ECAD'S VICTORY AT COURT IN BRAZIL: LEADING TV NETWORK WILL HAVE TO PAY 2.5 PERCENT OF REVENUES ON PERFORMANCE RIGHTS

The Fourth Private Law Division of the Court of Appeals of the State of Sao Paulo confirmed a district court's earlier decision and determined that the network Brazilian Television System (SBT) must pay 2.5 percent of its monthly gross revenues to collective management organization (COM), ECAD, for the tracks played on its programs.

In his opinion, the judge stressed that the TV network must respect the collection criteria set out in ECAD's Collection Regulations, since these guidelines embody the will of rights holders, who are the owners of the music works.

"This is a major step forward for rights holders. By validating the criteria laid down in ECAD's Collection Regulations, this court decision strengthens the role of our institution as legitimate advocate of the interests of artists, thus evidencing the importance of our work in protecting the rights of those who make a living on music," said Clarisse Escorel, legal Director at ECAD.



### IFPI LATIN AMERICA & CARIBBEAN HOLDS ANNUAL MEETING IN MIAMI



IFPI's regional office for Latin America & Caribbean held its annual meeting with its affiliated organizations in order to align their national agendas with the industry's global strategy and best practices. Both international and national priorities of the music industry were addressed and debated during the event.

This allowed IFPI to coordinate efforts between the organizations' executive teams and the global targets for the sector. The main topics discussed were focused on the issue of "value gap" the

growing mismatch between the value that user upload services - that benefit from the misapplication of 'safe harbour' laws - extract from music and the revenue returned to those who are creating and investing in music.

Other topics included market information, collective management of rights, and content protection.

## **DOMINICAN REPUBLIC'S COPYRIGHT OFFICE VISITS IFPI LATIN AMERICA**

The newly-appointed Director of the Dominican Republic's Copyright Office (ONDA), Mr. Trajano Santana, and a team of collaborators, visited the offices of IFPI Latin America in Miami. The purpose of the meeting was to help put in place a private copying levy system in the Dominican Republic. Whilst such a levy is part of the



country's Copyright Law it still awaits implementation. Through a video conference, the ONDA team had detailed access to the systems currently in operation in Spain and Paraguay, two Spanish-speaking countries where private copying monies are already being collected. Mr. Santana expressed his commitment to having a private copying levy system in place in the short term.

## **LANDMARK RULING OF GUATEMALA'S CONSTITUTIONAL COURT**



Last June 21st, Guatemala's Constitutional Court ruled over an action brought by the TV company Trecevisión against AGINPRO on the grounds that the performance rights fees charged by the collective management organization were unconstitutional. The Court decided that AGINPRO may fix royalty rates

for the use of sound recordings within its repertoire and that such rates are applicable whenever a user decides to make use of those sound recordings. However, the court said, if the user does not make use of the sound recordings,

payment cannot be demanded by AGINPRO. This court ruling confirms that collective management organizations may fix royalty rates for the use of the repertoire they administer and that users must pay in order to make use of that repertoire. With its decision, the country's highest court has endorsed AGINPRO's continuing efforts in favor of both national and international performers and phonogram producers.

### **DIRECTV HIT WITH RECORD FINE FROM ECUADORIAN GOVERNMENT FOR NOT PAYING RELATED RIGHTS TO SOPROFON**

By mid-May, the Ecuadorian Intellectual Property Institute (IEPI) decided on the 19 administrative actions that SOPROFON had initiated against DIRECTV Ecuador for the unauthorized communication to the public of sound recordings in its programs. The IEPI imposed 19 administrative fines which amount to USD 501,182 and are



without doubt the largest-ever penalty handed down to a user like this in the region. This sanction, which is subject to appeal, clearly demonstrates that in using sound recordings without the authorization of their rights holders, DIRECTV has infringed on the country's Copyright Act. This is a clear endorsement of SOPROFON's efforts to legalize the pay TV sector in Ecuador.

### **STREAMING CHARTS AVAILABLE IN MEXICO, ARGENTINA, CHILE, AND COLOMBIA**



IFPI's National Groups published the lists of the top streamed songs on their countries' online music services. This interesting information can be accessed on the National Groups' websites at

<http://www.amprofon.com.mx/top-streaming.php> in Mexico,

<https://www.capif.org.ar/rankings/> in

Argentina, <http://www.profovi.cl/top10streaming.html> in Chile, and

<http://www.apdifcolombia.com/> in Colombia.