

April 18, 2011

The Editor  
Jamaica Observer Limited  
40 Beechwood Avenue  
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Dear Editor:

### **BCJ Tackles Howard on Payola**

My good friend Dennis Howard needs to take another look at a few contradictions in his otherwise timely and interesting article on Payola recently published by the Observer (April 17, 2011: page 23).

The conundrum begins with the very title of his paper, which runs: "Payola in Jamaica: Illegal and unethical or standard business practice?" Well, on the arguments presented by Dennis himself and by others at a recent Broadcasting Commission industry workshop, it would appear that all of the above apply. Why is the idea of payola as 'standard business practice' being counter-posed to notions of it being unethical or illegal? We know that many 'standard business practices' are both illegal and unethical and in that respect payola is no exception.

For new-comers to the discussion, payola is the term used to describe the widespread practice of secretly giving or accepting bribes in a variety of forms in exchange for music airplay or other means of media exposure. The Broadcasting Commission of Jamaica has submitted recommendations to government to formally make the rapidly growing practice a criminal offence and has also developed a raft of other proposed counter-measures related to the management of airplay within broadcasting stations.

### **Playlists and Logs**

However, if the published version of Dennis's article is to be believed, the Commission is only concerned with seeking to criminalize the practice. That is not so. After quoting me as Commission Chairman on the criminal character of payola, Dennis proceeds to declare as follows: "However, any attempts to make payola a criminal offence without looking into other attempts to counter the practice, I fear, might not have the desired effect of curtailing the practice?" Of course, Dennis knows that criminalization is but one of the several measures being proposed by the Commission and being publicly articulated by me and other leaders of the Commission from time to time. He compounds this unfortunate misrepresentation by concluding that, "The question

is, do we need to criminalize or do we need to educate, regulate and manage more effectively?" Well, again, it's not either one or the other, but all of the above. The answer to your question, Dennis, is yes, we need to criminalize this increasingly widespread practice of large scale "commercial bribery", even as we continue to educate, regulate and to insist on more effective internal station management practices regarding airplay.

For example, we have placed on the table, the need for stations to ensure compilation of music playlists and programme logs in accordance with declared methods internally approved by the stations themselves. We have recommended that these logs and lists should be available for inspection by the Commission and by approved rights agencies. We have called for the designation of a programmes manager to supervise music output in the many stations where this position no longer exists and that on-air disc jockeys who are also music producers or sound system owners be required to declare themselves and thereby become subject to rules related to the playing of what is called 'connected content'. Not all infringements would attract criminal sanctions as the upgraded regulatory provisions would continue to track simple breaches of established procedure. However, those who are found to be bribe-taking violators would be liable to face the stiff regime of criminal sanctions, whether they are individual broadcasters, DJs, their accomplices or station management.

The Commission has also posited the option, practised in other jurisdictions, of music producers buying radio or TV airtime to play broadcast-quality music from their own stables in a manner that is open and branded as sponsored output.

### **Dysfunction**

Whether payola is the primary dysfunction in the entertainment industry or the main basis for corruption is a matter for debate. But it does not have to rise to become the primary dysfunction before we deal with it. That approach is part of the general breakdown that has led to what Dennis himself describes as the "broader problem of corruption in the wider society".

He makes an interesting point about the younger generation not relying on free to air broadcasting or major record companies to determine what they listen to and view. He feels that we are trying to solve a problem that is disappearing because the audience in the age range of 15 to 40 years have "put traditional broadcasters at the lower end of the 'cool and hip' totem pole." He continues, "You Tube, Facebook, Last FM and the website, Outaroad.com, are the preferred choices for this new generation...". Dennis claims that "these are individuals that are "totally immersed in technology". There is no doubt that these emerging practices related to social networking and youth propensity to online entertainment resources do exist. But the question is to what extent does this take place in Jamaica, especially given known limitations of affordability, literacy and physical access among the majority of our youth and '40-somethings'. Moreover, the historical experience of media is that new channels or technologies do not eliminate old ones but often re-purposes or appropriates them as part of an expanded mix of channels available to all demographic groups.

### **JARIA Support**

Like many others abroad who are inclined to believe the hype, we here in Jamaica should be reminded that despite the growing use of new media, the traditional media of radio and television

still remain the dominant channels for content among the majority of all demographic groups, including our youth, even if they use new means of gaining access.

This reality is apparently very clearly understood by those who are engaged in the practice of payola on radio and television, hence their continued avid pursuit of illicit payments for airplay.

The Jamaica Reggae Industry Association (JARIA) and others in music and media should be commended for the forthright stand being taken against payola in all forms, for their stated intolerance of excuses for this practice and for their declared support of the firm position being taken on the matter by the Broadcasting Commission of Jamaica.

***Hopeton Dunn, Chairman, BCJ***