

The importance of a balanced and sound copyright system

Jørgen Blomqvist
Honorary Professor
Centre for Information and
Innovation Law

UNIVERSITY OF COPENHAGEN



The importance of copyright and related rights for society

3 – 5%

is the typical contribution of copyright and related rights to the gross national product

The copyright industries occupy relatively more workers than the average

The copyright industries grow at higher rates than the average

What is the purpose of copyright protection?

- Utilitarian
 - Promote the making of new works
 - Creation by authors
 - Entrepreneurship by producers
 - Promote the dissemination of works
 - Editing and preparation
 - Reproduction, storage, marketing
 - Distribution
- Human rights
 - Ensure payment of authors for their work
 - Safeguard the authors' moral interests
 - Paternity
 - Respect
- Society in general
 - Support a viable economy regarding information and culture
 - Link user preferences with reward
(market economy/economic efficiency/democracy)

The importance of copyright for creators

- It provides moral rights to claim authorship and thereby connect the author to his or her work
- It provides moral rights to ensure that the integrity of the work is maintained, also after it has been disseminated among the general public
- It provides economic rights to ensure a just payment
- It supports payments from all end-users
- It enables a fair bargain with publishers and a basis for income and continued production of new works
- The income is based on the public appreciation of the work and not on irrelevant factors

The importance of copyright for the cultural industries

- By securing investments, it promotes the production and availability of new works
- It prevents unfair competition, nationally and internationally
- It reduces the economic risks
- It provides the basis for publication of works and production of derived works

The importance of copyright for users

- It helps ensure the integrity of the work, that it is correct and up-to-date
- It channels money back to those who created, produced and published the works, thereby promoting the publication of more works
 - greater choice
 - higher quality
 - independence of extrinsic influence, such as from business sponsors or the like
 - those who are appreciated by the public are rewarded
- - but everything provided that the copyright system is well balanced and managed

Examples of limitations and exceptions

- Reproduction for personal use in research and study
- Reproduction for use in teaching
- Reproduction for archival use and format-shifting
- Reproduction for persons with disabilities
- Library lending of books
- Reproduction by the press
- Incidental use when reporting current events in TV
- "Right of panorama" (buildings and artwork in public places)
- Performance in schools, military bands, etc.
- - and many more

Some typical misunderstandings

- Works are a non-rivalizing good
 - but contrary to the air that we breathe, creating a work is an investment, at least of labor and time
- Authors themselves build on previous works, “ideas want to be free”
 - idea/expression dicotomy
- Traditional copyright is replaced by new business models
 - Creative Commons
 - Free Software
 - Open Source
- The dissemination of works is in the interest of the creators
 - Yes, not least academics
 - - while others will then be famous and poor
- The publishers unfairly exploit the artists
 - so now it is the consumers’ turn?
- The copyright system does not reflect a fair balance
 - term of protection
 - specific interests of certain groups, such as the visually impaired persons

Alternatives

- The individual copyright protection
 - direct influence from the buying public, based on market economy
 - does not exclude a wide variety of business models
- New business models
 - Spotify and other streaming models, like commercial radio and TV: you still pay, but you may not notice, neither the payment nor the intervening interests
- Government funding
 - cultural endowment at arm's length
 - risk of becoming a general tool in the economic policy
- Patronage or sponsoring
 - universities, no big difference
 - other areas, risk of dependence
- Side income
 - income from speaking engagements or concerts
- Economic efficiency?

Elements of a policy on CRR

- The introduction of adequate copyright and related rights legislation
- Ensure international protection by joining the appropriate conventions and treaties on copyright and related rights
- Support the transition to licensed use by businesses already active in the sector
- Support the sector making lawful use of protected works
- Enable and support the individual licensing of rights
- Enable and support the collective licensing of rights
- Ensure appropriate public supervision of collective management organizations
- Formulate a clear policy regarding enforcement
- Enable the enforcement activities in the private sector
- Enable the enforcement activities in the public sector
- Ensure coordination and cooperation within and between those sectors

