



Regional Seminar on the Digital Disruption in the  
Creative Economy: A Multifaceted Challenge with Great  
Potential

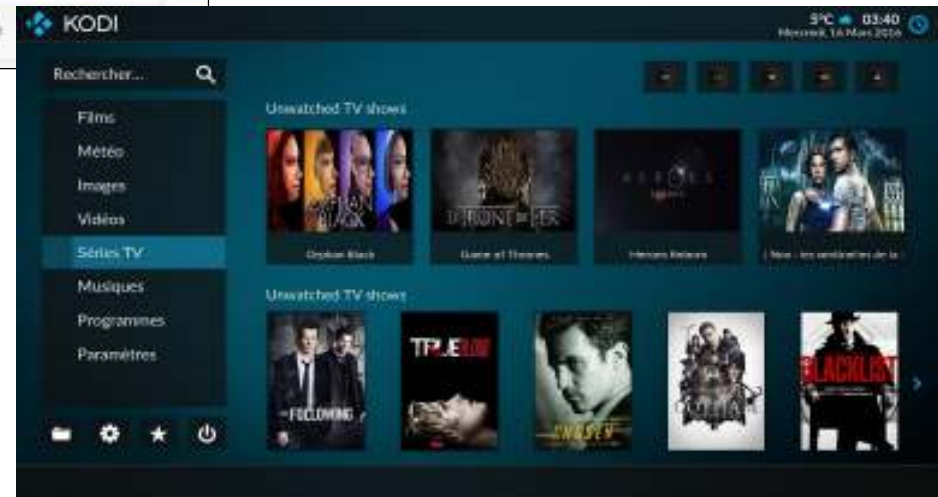
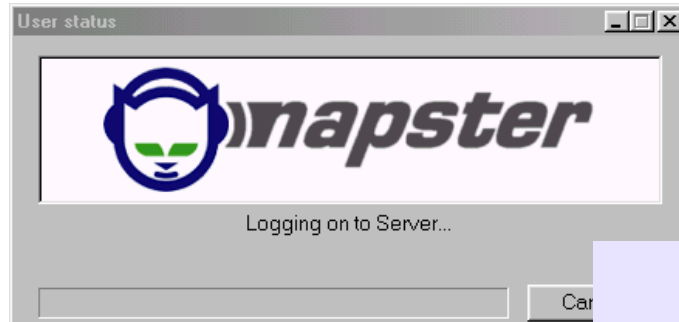
Singapore, September 3 and 4, 2018

**Topic 7: Enforcement Remedies  
to  
Sustain Copyright In The Digital Economy**

# Piracy 1

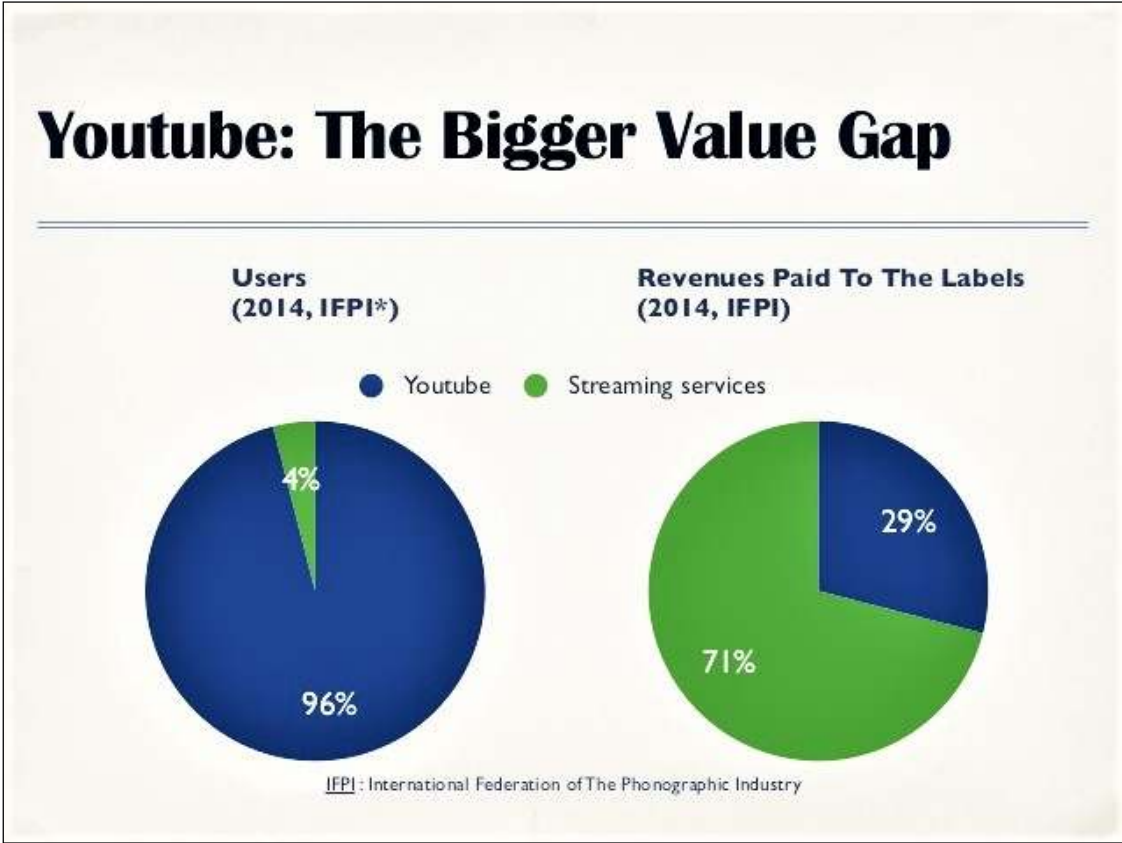


# Piracy 2





# Unjust Enrichment



## The Response

- Legal Remedies
- Technology
- Business Solutions
- Education

# Legal Remedies I: Phonograms Convention 1971

## Article 2

Obligations of Contracting States; Whom they must protect and against what

Each Contracting State shall protect producers of phonograms who are nationals of other Contracting States against the making of duplicates without the consent of the producer and against the importation of such duplicates, provided that any such making or importation is for the purpose of distribution to the public, and against the distribution of such duplicates to the public.

## Article 3

Means of Implementation by Contracting States

The means by which this Convention is implemented shall be a matter for the domestic law of each Contracting State and shall include one or more of the following: protection by means of the grant of a copyright or other specific right; protection by means of the law relating to unfair competition; protection by means of penal sanctions.

# Legal Remedies II:

## WIPO Copyright Treaty

### Article 11

#### Obligations concerning Technological Measures

Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this Treaty or the Berne Convention and that restrict acts, in respect of their works, which are not authorized by the authors concerned or permitted by law.

# Legal Remedies III

## Singapore Copyright Act

Order to disable access to flagrantly infringing online location

193DDA.—(1) Where the High Court is satisfied, on an application made by the owner or exclusive licensee of copyright in a material against a network service provider, that —

- a) the services of the network service provider have been or are being used to access an online location, which is the subject of the application, to commit or facilitate infringement of copyright in that material; and
- b) the online location is a flagrantly infringing online location,

the High Court may, after having regard to the factors referred to in section 193DB(3), make an order requiring the network service provider to take reasonable steps to disable access to the flagrantly infringing online location.

## UK Copyright, Designs and Patent Act 1988

97A

Injunctions against service providers

(1)The High Court (in Scotland, the Court of Session) shall have power to grant an injunction against a service provider, where that service provider has actual knowledge of another person using their service to infringe copyright.



# Safe Harbour/ Notice and Take Down

**17 U.S. Code § 512** - Limitations on liability relating to material online

(c) Information Residing on Systems or Networks At Direction of Users.—

(1) In general.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider, if the service provider—

- (A)
- i. does not have actual knowledge that the material or an activity using the material on the system or network is infringing;
  - ii. in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or
  - iii. upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;
- (B) does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and
- (C) upon notification of claimed infringement as described in paragraph (3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity.

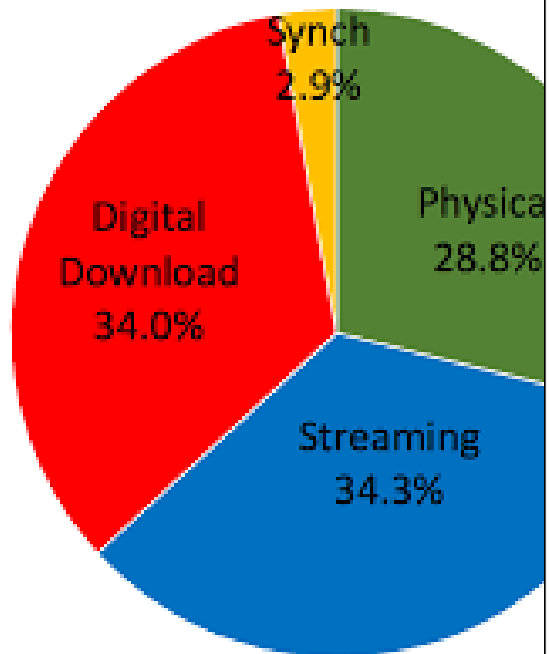
# Technology



# Business Solutions

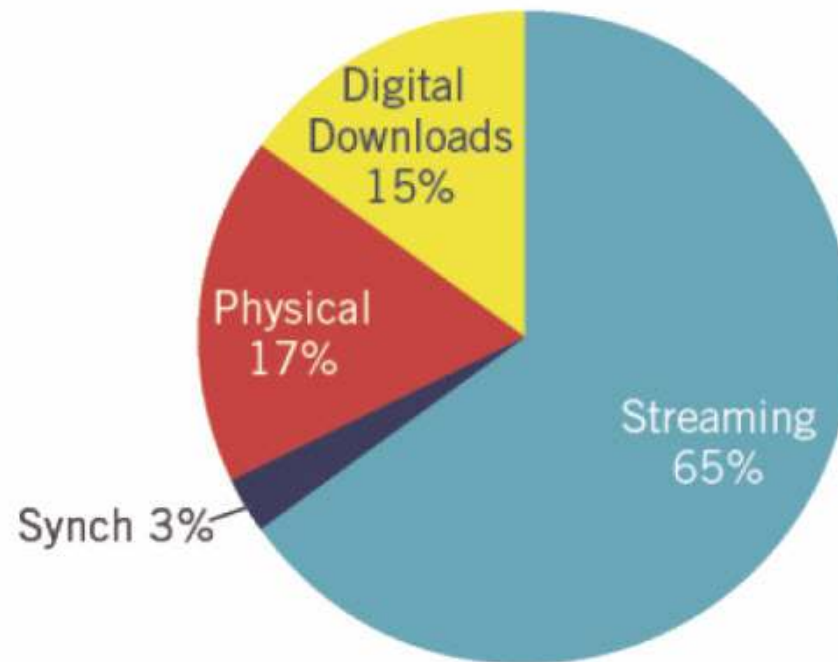
US Revenues 2015

Source: RIAA



U.S. Music Industry Revenues 2017

Source: RIAA



**+5.9%**

GLOBAL REVENUE GROWTH

**50%**

DIGITAL SHARE OF GLOBAL REVENUES

**+17.7%**

DIGITAL REVENUE GROWTH

**+60.4%**

GROWTH IN STREAMING REVENUE

**-7.6%**

PHYSICAL REVENUE

**-20.5%**

DOWNLOAD REVENUE

# Education



The unauthorized reproduction or distribution of a copyrighted work is illegal. Criminal copyright infringement, including infringement without monetary gain, is investigated by the FBI and is punishable by fines and federal imprisonment.

You want to know about  
**COPYRIGHT** in Education

If this... then... Can I use it?

Can I use material I found online for teaching or school work?

There is a lot of confusion. What can a teacher do, to not infringe on copyright and model for their students digital citizenship, information and media literacy? What are guidelines for students to create, remix and learn with presentations and other multimedia projects?

Know About **COPYRIGHT** Become Information Literate  
Media Literate  
a Digital Citizen

Ensure creative and ethical use of media and information resources in teaching and learning through copyright compliance.

**A NEW ERA OF COPYRIGHT CONSCIOUSNESS**

Today, we have ubiquitous digital access, ease of duplication and distribution of information. We encourage students and faculty alike, to write, record and film, for global audiences, thus ushering in a new era of copyright consciousness. Everyone has rights and responsibilities.

Do you need media for a school project or as part of teaching? Use the following flow...

- Create your own media** → **search for Public Domain**
- search for Creative Commons** → **Can you Claim? Fair Use**

- Copyright**: All original work is protected under copyright when it is created. No further action is required by creator.
- Creative Commons**: CC licenses allow creators to communicate which rights they reserve, and which rights they waive for the benefit of recipients or other creators.
- Public Domain**: Public Domain consists of works that are publicly available; works that are unavailable for private ownership or are available for public use.
- Fair Use**: Fair Use is not law, but it is a legally defensible position based on balancing four factors: nature, amount, purpose, and effect. Determining Fair Use is always a case by case, critical reasoning process.