

Copyright and the Cultural Industries : Incentives and Earnings*

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Introduction

Copyright law establishes property rights, which enable markets to develop in the cultural sector of the economy. As with all laws, copyright law is national; however, the necessity for that law to be effective with international trade of cultural products (books, sound recordings, TV programmes, films etc.) has led to harmonisation of copyright across countries as well as to a considerable edifice of international cooperative administrative arrangements. While the law and its administration differ somewhat between countries, the general principles are similar in most countries that are signatories to the Berne and Rome Conventions. The analysis in this paper deals mainly with copyright in the UK music business; nevertheless, much of the content is relevant to other countries and other parts of the cultural sector.

The research that is reported here is part of my programme of research that aims to assess the economic benefits and costs of copyright in the cultural industries. It does so by placing an empirical value on one of the many rights that comprise copyright, the rights of performers to remuneration for the public performance of sound recordings. Evidence is provided for the UK, Sweden and Denmark. These are compared with the earnings from performance rights of composers in the UK and Italy. While these figures cannot tell us what these artists earn overall from copyright, they are indicative of the low median earnings that is the norm for artists. Of course, as is well-known, a few superstars receive very high earnings but they are far from typical. *Aggregate* copyright earnings in the UK, as in other countries appear to be high and the cultural industries, or the creative industries as they are now called, make significant contributions to Gross Domestic Product and to export earnings. Those facts make it all the more important to research the distribution of copyright earnings to the creative workers (artists and others). At a time in which there is increasing pressure to extend and strengthen copyright law, it is necessary to ask what the benefits are and who enjoys them.

In the paper, I first look at the economic arguments for copyright in general and then turn to performers' rights. Next evidence on the economic value of copyright and performers rights in general

is presented and then the administration of copyright by the collecting societies is analysed. The empirical findings of my research on distribution of royalties to individual musicians is reported in Section 7. After that, there is a short discussion of the associated transaction costs and finally some concluding remarks consider the implications for cultural policy.

Copyright as an Incentive

The acknowledged economic role of copyright law is to provide incentives to create and disseminate the expression of ideas. Unlike patents, which have the same economic purpose, copyright law does not protect ideas, only their expression of the work in fixed form (the fixation); in the UK, copyright is automatic and belongs initially to the author, the creator of the first fixation; the law covers a wide range of literary, dramatic, musical and artistic works in various media, such as broadcasts, films, recordings, computer software and the like. Whereas patent law requires proof of novelty, copyright law does not require any proof of artistic merit, and accepts authorship on the basis of creative effort; thus arrangements, compilations, listings, databases, etc. are protected by copyright separately from the original material they comprise of.

Copyright is in fact a bundle of different rights in a work. A work in the legal sense is distinct from a product in the economic sense, which may be made up of different works owned in the first instance by different economic agents. These points have important economic implications:

- that transactions must take place between the different rights owners to produce and market a product comprised of the work or works,
- that different rights may well have different economic values. A simple example of this is the film rights of a book; an author whose book is made into a film can expect to earn far more from selling the film rights than from royalties on book sales;
- that the same rights often command different values in different territories, i.e. geographical markets.

The basic right conferred on the author of a work of controlling or restricting the acts of copying gives her a temporary monopoly (and note that rights apply work by work, so that the author of several works is a "multiple-monopolist"); this monopoly power of the author is weak in the case of copyright because she has to contract with publishers (not only literary and music publishers but also firms in all the cultural industries that are content providers) to gain economic benefits from her creation. The author may license, assign or sell these rights outright or in part or transfer them to an agent. Only the author's moral right in the work may not be sold or transferred (see below).

Putting all this in the context of the music industry, composers (of music) and lyricists (of words set to music) have exclusive author's rights in their works, which are licensed, usually by the music publisher (who has publication rights) to the record company (phonogram producer) wanting to record them. The record company then has the recording right in its recording. In order to make that recording, the record company hires performers who also have rights that must be transferred to the record company. These performers may be distinguished as contracted artists, e.g. a singer, a pop group or an orchestra, who by the terms of their contract are paid a royalty on sales of the record, and the "backing musicians" who provide the background music on the occasion of the recording session - the so-called "sessions musicians." In the UK, as elsewhere, this latter group does not get royalties on sales but they sell their rights for a single fee in a "buy-out" arrangement. We come back to performers' rights soon. The record - the final product - that is now in existence has attached to it a bundle of rights - sound recording, copying, broadcasting, public performance, et al. These rights relate to a specific territory.

Protection of these rights by copyright law enables the publisher (the record company in the case of sound recordings) to appropriate revenues from sales and public performance licences in full. The production of a sound recording (CD or cassette) requires an initial outlay, the fixed cost, for acquiring the necessary rights, advances to contracted artists, payments to sessions musicians and sound engineers, hire of recording studios for the production of the master tape, payments to graphic artists for the design of the packaging and promoting and marketing the record. The popular music side of the record industry (by far the greater part) is inherently risky as consumers' tastes are fickle and, in

the case of new performers, unformed, necessitating considerable investment in A&R (Artist and Repertoire) and the production and marketing of a high ratio of "failures" to "successes". Without copyright protection, making this outlay could be avoided by a free-rider in the absence. This is the standard market failure argument advanced by economists in support of copyright. Note that it relates to fixed costs, since it may be assumed that marginal costs of reproducing records are low and more or less the same for the record company as for legal and illegal copiers.

Figures published by the UK Monopolies and Mergers Commission (MMC) on the outlay of releasing an album by a typical major record company show that it is in the region of £0.25m to £1.75m, of which £125,000 to £1.4m are recoupable from artists' royalties if they are great enough (MMC, 1994, pp. 101). In aggregate, the five major record companies in the UK (BMG, EMI, PolyGram, Sony and Warner) recouped approximately 50 per cent of their A&R expenditure in 1993. A&R expenditure written off was 15.4 per cent of gross sales; marketing accounted for 15.9 per cent (MMC, 1994, pp.171 and 173). A free-rider could avoid these fixed costs and avoid risk since he would know he was backing a successful recording. He would incur only marginal costs and possibly some marketing costs of his own and thus could undercut the initial producer. His only disadvantage is arriving later in the market, i.e. not having the headstart of the first entrepreneur.¹ Preventing this competition is the incentive that copyright law offers - it enables the publisher to appropriate all market revenues from outlays on the creation of the work, the sound recording in this case. That is the benefit side.

On the cost side, however, is the contracting process, which raises costs the more complex are the negotiation and parties involved. In the example of the process of making a sound recording of even just one work (and most recordings comprise many works) many transactions must be made. Moreover, royalties and other remuneration must be collected from a host of individual rights; each one can vary in pecuniary worth in the different markets, including those in foreign territories, in which

¹ Plant (1934) regarded this headstart as so great an advantage that the protection of copyright law was unnecessary. This view to some extent still persists among economists dealing with intellectual property law.

they are exploited by sales and by public performance in broadcasts, inclusion in films, etc. These are what economists call transaction costs.

Performers' Rights

Performers are not accorded copyright proper as are authors and publishers but rights "neighbouring on" copyright; in some countries called neighbouring rights, these are called performers' property rights and non-property rights in the UK. Following the adoption of EC Council Directives No.

92/100/EEC and 93/183/EEC, commonly called respectively the Rental Directive and the Cable and Satellite Directive, performers in the UK acquired individual reproduction, distribution, rental and lending rights and the right to equitable remuneration for exploitation of sound recording. It is this last right that will figure largely in subsequent parts of this paper. This right may not be assigned by the performer except to a collecting society for enforcing the right, i.e. it is unwaivable. Unlike copyright, which lasts 70 years, in the EEC, performers' property rights and the recording right last for 50 years. Again, I concentrate here on performers' rights in the music industry in order to illustrate my argument.

The right to equitable remuneration for exploitation of sound recordings relates to the public performance of records, the right to which is licensed to users - broadcasters and a huge range of other enterprises, such as shops, pubs, hotels and restaurants, aeroplane and shipping companies, discotheques, sports halls and the like - who play records in public for their customers. This secondary use is distinct from sales of records, which enable buyers to play records for their own use in private as often as they wish. Payments to performers for sales take the form of royalties (and advances on royalties) to the contracted performer and a flat rate fee to the session musicians which, in the UK at least, buys-out their rights except that of public performance. Once the record is made it becomes a quasi-public good when performed in public and rights owners (the record company and the performers) can only earn income from fees from licenses sold to users, the price of which is based crudely on the number of people who may be deemed to have access to the public performance.

There is a complex set of tariffs for various types of users. For many uses, and particularly for broadcasting, which has mass audiences, detailed logging of recordings is required so that performers may be paid accordingly to the use that is made of their work. This is discussed in detail later on. A

further point to note is that performers cannot prevent the record company from exploiting the recording for sales or secondary use. In the case of secondary use, performers in the UK have no influence over the extent to which exploitation takes place nor over what is charged for licences.

Secondary use of works, whether sound recordings or other copyrighted works, necessitate collaborative collection of royalties. This is done by collecting societies. Those in the music industry are discussed later.

Economic Value of Copyright

Since the avowed economic purpose of copyright law is to provide an incentive to create and disseminate works, it is appropriate to enquire what the pecuniary value of these rights is. It is sometimes said that copyright has a symbolic value to artists and that it confers recognition of their status; in addition, moral rights, which have no monetary value, are a stimulus to creative activity. I do not dismiss these arguments; however, cultural economists studying artists' labour markets have shown that artists respond to financial rewards by spending more time on artistic work, that is, supply is not totally inelastic (Throsby, 1997). Surveys of artists' labour markets have also shown how relatively underpaid artists are and that they are unable for financial reasons to spend as much time on their chosen occupation as they would like to because they do not earn enough from it and must do other work to make a living (Towse, 1996). It is therefore valid to ask how much artists earn from copyright - in this case how much do musicians earn from royalties and other income related to copyright/performers' rights in the music industry?

Starting with the aggregate picture, I quote figures for 1995 from an important study *The Value of Music* in the UK by Dane, Feist and Laing (1996).

Table 1 here

The total figure for the music industry, as defined in Table 1, of £2.5bn represented 0.3 per cent of UK GDP for 1995; in addition, the industry is a major exporter, with exports of £1.2bn being twice the figure for music imports. Dane, Feist and Laing (1996) also cite official statistics for 1995 on consumer spending on music of £3.1bn and their own estimated expenditures by private corporations of £145m. In addition, the British Broadcasting Corporation (BBC), a public corporation, is estimated to have spent £87m (including £46m on copyright payments) on music in 1994/95 (p.83). Total expenditure, excluding subsidy and private sponsorship (which are transfer payments) was £3.3bn.

These figures demonstrate the economic importance of the UK music industry and hint at the role of performers in it. What is much more difficult is to estimate the earnings of musicians, i.e. composers and performers, from copyright and performers' rights. Musicians' earnings derive from royalties from the sale of published music, from live performance, from recording (records, film and video, commissioned music for radio and TV, including advertisements, jingles and signature tunes, etc.) and from secondary use of records. Composers are often also performers. This is especially true of pop groups but also 'classical' composers conduct and perform their own and others' music. In addition to royalties, musicians also earn income from fees for live and recorded performance. No reliable data exist for total earnings of musicians, though partial surveys have been conducted (see Towse, 1996).

The point being made here is not what are musicians' incomes in general but what are their earnings from specific items of the bundle of copyrights. That is what will tell us the value of these rights and the incentive that they offer to create and perform music. The merit of this approach is that it allows us to analyse the incentive value of *changes* to copyright, such as the recent extensions of performers' rights in the UK due to the EEC's harmonisation of copyright, in particular the new regulations due to the Rental Directive. Indeed, the government department responsible for implementing the Directive sought information from the music industry and music users on both the benefits and costs of the new regulations but no systematic research had been done on these questions. The main source of data on musicians' earnings from copyright and performers' rights (i.e. the economic benefits of the new rights) comes from the collecting societies in the music industry.

The Collecting Societies in the Music Industry

Before proceeding with the data on music royalties, it is worthwhile to describe the activities of collecting societies because their role both demonstrates the problems of administering copyright and explains the sources of earnings from copyright.

Collecting societies are non-profit membership organisations. They have four main functions:

- 1 . To license the works in which they hold the copyright or for which they act as agent on behalf of their members for specific uses;
2. To monitor use and collect revenues;
3. To distribute revenues as royalties to members; and
4. To enter into reciprocal arrangements with foreign collecting societies to collect and distribute royalties earned in the UK to foreign rightsholders and to receive and distribute royalties earned abroad to UK rights-holders.

Throughout Europe, there are somewhat different practices concerning collecting societies. In the UK there are twenty collecting societies for various rights. These are: the Performing Right Society (PRS), equivalent to KOMKA in Korea, to which are assigned performing and broadcasting rights by composers and music publishers; whenever a piece of music is performed or broadcast a royalty is paid to the composer and/or publisher of the work; the Mechanical Copyright Protection Society (MCPS) licenses the mechanical right (the right to record) as the agent of the composers, lyricists and music publishers; anyone recording a piece of music must obtain a license from the MCPS and pay royalties on the sale of recordings; since 1998, the MCPS/PRS Alliance has jointly administered performance and mechanical rights (an example of greater efficiency of collection). Phonographic Performance Ltd (PPL) is the collecting society for the record companies; it licenses public performance and broadcasting rights of the recording companies, who are the owners of the copyright in sound recordings; and Video Performance Ltd (VPL) which performs the same task as PPL but for music videos. In Italy, by contrast, SIAE (Societa' Italiana per Autori eEditori) is the sole organisation administering copyright and it is licensed to do so by the state. That is also the case with Jasrac (for

composers and publishers) and Geidankyo (for performers) in Japan. Table 2 presents total income figures for performance and mechanical rights in a selection of countries.

Table 2 here

Collective administration, particularly of secondary use such as broadcasting and other public performance, has developed with the proliferation of rights and uses. Collective administration first of all enables individual artists to collect royalties from and monitor uses of their works, something that would otherwise be prohibitively expensive for all but the highest earners; the cost of the extensive administrative networks needed to do so are thus spread over all members of the collecting society. By means of blanket licensing, collecting societies also reduce the cost to users of playing copyrighted works; by paying a single fee, users have access to the whole of the society's repertoire. In the absence of such blanket licenses, users would have very high transaction costs of clearing rights with each individual composer, lyricist, music publisher, performer and record company. The licence applies not only to a single territory, but also through reciprocal agreements with foreign collecting societies, to the territories in which they operate.

In the UK (as in many other countries), each collecting society has a monopoly over the administration of the right(s) which it administers. This monopoly has been a matter of concern to competition authorities in several countries.² In the UK at least, the natural monopoly (due to network costs) of the societies over these rights is accepted by the government's anti-trust body, the Monopolies and Mergers Commission (MMC), as beneficial. However, it did level criticisms at the relatively high administrative costs (26 per cent for PRS' domestic licensing and 17 per cent overall in 1994; 13 per cent for PPL). In 1999, the MCPS/PRS Alliance had only 10.7% administration costs (less than half of those of KOMCA at 22.4%). The MMC also investigated the system of distribution of royalties between members; different types of music, such as contemporary classical, used to be paid different

² The anti-trust body in Germany ruled that GEMA, the German performing rights collecting society, was an unacceptable monopoly. In the USA, ASCAP again administering performing rights was forced to accept competition from BMI.

royalty rates. Different types of music inevitably give rise to differing collecting costs; another item that distorts payment to individuals in some countries is cultural deductions.

Before turning to a discussion of performers' rights, it is worth looking at the breakdown of aggregate figures of royalties and licence fee income in the UK music industry within one society. The PRS distributions in 1994 for the previous year's UK performances were 27 per cent to Writers (composers and lyricists) and 47 percent to Publishers, with 32 per cent going to Overseas affiliated societies. The PRS figure may be broken down into income from broadcasting rights, from public performance rights and from overseas royalties; in 1994 each category contributed roughly one-third (MMC, 1996). MCPS royalties derived mainly (75 per cent) from record sales etc. with licensing for broadcasting (8 per cent) and other licensing contributing the remainder. Half of the PPL income derived from broadcasting and 42 per cent was from public performance of sound recordings.

The division of PPL distributions in 1994 between the different groups of members was 67.5 per cent to the record companies, 20 per cent to named (contracted) artists and 12.5 per cent to the sessions musicians. As we see below, those shares were changed to 50 per cent to the record companies and 50 per cent to all performers by changes to copyright law from the Rental Right Directive; it is, however, open to question whether this improves the share of performers.³

These figures show the extent to which publishers benefit in relation to composers and performers.

New Extended Performers' Rights in the UK

The following case history illustrates the effect that changes in copyright law can have on the way markets work. The PPL distribution described above was until 1996 a voluntary agreement between the record companies, named performers (i.e. those with a contract for royalties on sales with the record company which recorded their performance) and the Musicians' Union representing

³ This has been the subject of research by Millie Taylor and myself. See Taylor and Towse (1997), Towse (1997a) and Towse (1997b).

the sessions musicians. Backing singers were not part of this arrangement and received no remuneration for public performance of sound recordings to which they contributed; they simply received a session fee that bought out their rights and, presumably, reflected the value of their contribution to the recording. The introduction of the Rental Directive (EC/92/100) in 1996 changed this arrangement, making remuneration for the public performance of sound recordings an unwaivable statutory right of performers. This right is an individual one and payment is now based on the individual performer's contribution to a recording, measured (in the UK) by time minutage.⁴ This requires every performer's playing time to be logged for each track on a record (track by track for an album or compilation disc). It has made necessary the collection of much more detailed information and will also require a points system for the distribution of royalties. A new collection society for performers has been set-up to administer these rights, PAMRA (Performing Artists' Media Rights Association). This has, however, predictably, had serious problems in starting out because such detailed data are required, not only for currently produced works but even more for back catalogue. In addition to distributing the performers' share of the PPL distribution, PAMRA can now enter into reciprocal agreements with foreign collecting societies dealing with performers' rights, for example, Geidankyo in Japan, which have collected performers' royalties for some time.

Another change is the division of income from public performance between the record companies and performers. In line with other countries, in many of which an equal share is a statutory obligation, the division in the UK will now be 50:50 due to a voluntary decision by PPL. To an economist, the issue is the degree to which changes in copyright law can influence the earnings of performers and authors. That is the underlying question of my research. As can be readily understood, the answer is far from simple.

The Rental Directive also introduced a new concept into copyright law in the UK, by making this non-property right unwaivable. Previously, only the moral right was unwaivable (and that only since 1988). This stricture, however, does not apply to the fixation of the performance for sales i.e. for primary use, only to secondary use when the record is played in public or broadcast (public performance). UK

⁴ In German-speaking countries the basis is the performer's earning from her original contribution.

performers will therefore continue to sell that right in a buy-out. Research by Taylor and Towse (1997) anticipates that the fee for the recording session, £90 in 1996, could be adjusted (or not raised in real terms) in view of the unwaivable future income to which the record company is now statutorily liable. Time will tell. Our ongoing research is to monitor the effects of this change to copyright law. It offers a unique opportunity to observe the interface of law and economics as the economic effects of the institutional change take place.

The clear intention of the drafters of the EEC Rental Directive was to prevent performers, who generally have a weak bargaining position vis-a-vis record companies, from being forced to agree to a buy-out of their rights (Reinbothe and von Lewinski, 1993). Thus the purpose is to regulate market outcomes. But it is not always the case that such a policy always leads to the anticipated benefits: markets work around the law in many ways.

An analogy may be drawn with employment law; for example, regulating the maximum hours that may be worked in a week allows an employee to withstand demands by an employer to work more than the statutory hours without fear of being sacked. The employee may agree to work overtime at an enhanced rate of pay but she has the right to refuse to do so. Such regulations protect workers' rights and improve their bargaining power; however, they also raise the cost of labour to the employer and, if excessively strong, could put him out of business, and causing the worker to lose her job. As with employment regulations, the Rental Directive seeks to alter the balance of power between the individual performer and the "employer" - the record company - who uses her labour, now transformed by recording into a property over which she has a right. If that right were sold she would have no further claim on the income accruing to it. The idea behind the Rental Directive is to prevent exploitation of performers. What it implies is that there cannot be a fair price for the outright sale of rights - the so-called buyout. It also implies a belief that the legal system can manipulate a more favourable outcome than the market. Such a proposition must be tested by empirical data.

Distribution of Royalties to Individual Musicians

In order to assess the extent to which copyright law provides an incentive to creative activity

and, ultimately, whether changing the law can improve that, it is necessary to know how much individual musicians earn from their rights. Collection society data provide a basis for this information as distributions are done on an individual basis. Moreover, in the UK, each collection society administers only a restricted range of rights, and sometimes, as in the case of PPL, only one right. As part of our research, Taylor and I obtained data on distributions to individual musicians for the six years 1989 -1995 which was administered (in a lump) by the Musicians' Union prior to the formation of PAMRA. Table 3 shows the distribution by bands of income.

Table 3 here

The money was distributed on a points system (by type of music, number of sessions etc.); the minimum payment per point was £30. The top earner received £44,630. With the distribution so obviously skewed, the median is obviously the best measure of what the typical performer earned. The median individual payment was £450 for the six years, an average of £75 per year⁵. These figures do not suggest that the performers' right can provide a significant incentive to supply. In 1990, a musician working in West End musical in London (these musicians often do sessions work in the daytime) typically earned £22,000. Clearly they could earn more from even one three-hour session fee (£90) than from the typical annual payment to performers for secondary use, i.e. that to which performers' rights now entitle them.

It might be argued that these are, unrepresentative because of the ad hoc way they were distributed.

To counter this claim, I have collected data from other sources, which confirm the same pattern.

Composers, who have long enjoyed a performing right, fared similarly as is seen from Table 4.⁶ In 1994, writer members of the PRS received a median net royalty payment of between £75 and £99 for

⁵ It should be noted, however, that averaging the figures over the six-year period disguises the fact that PPL revenues are growing; they rose by 34 per cent from 1992/93-1993/94 and 11 per cent the next year. Also, these distributions were for the 12.5 per cent share of PPL income allocated to (backing) musicians.

⁶ Interestingly, the pattern of these results is the same as those in the 1960s and 70s (Peacock and Weir, 1975).

domestic licensing (about two thirds of PRS' total income). Table 4 shows that median earnings of writers from domestic revenues was in the band £75-99; 31% earned less than £25; 66% earned less than £250. Including overseas earnings, 66% earned less than £250 and 4% earned over £10,000.

Table 4 here

Data from SIAE in Italy for all copyright earnings (Table 5) portray an even more skewed income distribution.⁷ The total number of authors in SIAE is 40,999 and the net distributed income in 1996 was nearly 143,402 million Italian lire. As can be seen from Table 4, 81.4 per cent of authors received less than 50,000 Lit. (about US \$10) with an extraordinarily low median of 80 lire which is barely comprehensible, since the annual membership fee is 150,000 Lit. Administrative charges were also high at over 50 per cent.

Table 5 here

Recent data from Geidankyo for performers' remuneration for Rental and secondary use (Table 6) demonstrate the same uneven distribution; a very few superstars earn a lot but the middle-of –the-road (median) performer does not.

Table 6 here

All these figures do not tell us what individuals earn in total from different rights. A survey of artists would be necessary to establish what they earn from different sources. What data from one collecting society show is the value to individual artists of a specific right. However, they show a consistent pattern and suggest that the amounts are small and can make only a marginal impact on artists' earnings even over a 50 year period (assuming the recording was in use for so long). The incentive value for the majority of artists must, therefore, be doubted.

⁷ I am grateful to Giovanni Ramello for obtaining and analysing these data for inclusion here.

Transaction Costs of Copyright

It is well-known that collecting societies' administrative costs (born by the membership) vary a lot country to country and from society to society; according to figures for societies collecting for musical performance for the top 50 revenue earners in 1999 published by *Music Business International*, these were mostly in the region of 15–20 per cent. But there are also costs of complying with the law and changes to copyright law have transaction costs to users.

The new performer's right to equitable remuneration from sound recording necessitates distribution on the basis of the individual's contribution track-by-track and necessitates changing the basis of collection; in 1996, PPL estimated this would add 2 per cent to its existing 13 per cent charge. GRAMEX in Denmark reported costs £80-£100 simply to register one CD. PAMRA in the UK, set up to distribute the backing performers' PPL share has encountered problems which seem likely to add to the costs of administering the performers' right. Of course, some of these are initial teething-trouble costs and electronic tracking may well be expected to reduce them significantly eventually. Some of the systems that have been proposed would shift the burden of cost to the record producer or the user. Who bears the transaction costs is therefore an issue that needs investigating.

Conclusion

The empirical data in this paper, however limited, are the first attempt to estimate the individual value of specific rights. They do not tell us how much total musicians earn. What they do show is that despite high aggregate earnings from copyright, the vast majority of musicians earn relatively little from their copyright and performers' rights. The large sums of royalty income that copyright law enables to be collected goes mainly to the publishers (music publishers and record companies) and to a small minority of high earning performers and writers. These are persons who can defend their own interests in the market place by virtue of their bargaining power and ability to hire advisers (managers, lawyers and accountants) to control their own affairs by contractual arrangements. This does not imply that there is no case for copyright. Property rights must clearly be defined and enforceable. But copyright law merely provides the framework for transactions. How much is earned is a market

outcome. In recent years, artists of all kinds have come to believe in copyright and related rights as a symbol of their professional recognition and as guarantee of their right to earnings from their work. These data show that that faith, for the typical artist, is misplaced. Even taking into account that copyrights and performers' rights last for 50 years, their present value can only be a marginal incentive to supply.

This analysis naturally leads to the question of policy implications. Would strengthening or extending copyright law result in higher earnings to artists? Can the bargaining position of artists be improved by regulation? Even if such measures were applied, how would they affect the costs of collection and monitoring use? The approach of economists is to ask if the marginal improvement in benefits would outweigh the extra costs. At present we do not have sufficient data to answer these questions properly. But the tentative conclusion is that the economic power of firms in the cultural industries, which are for the most part vertically integrated oligopolies, strengthened as they are by copyright law, is such that conceivable changes to that law could not vastly improve the earnings of artists. At a time in which the future of copyright law is being considered in the light of technological upheaval, we must also ask if it has anyway served the public interest well.

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