

Copyright and Creativity of Popular Music in the Digital Age: Towards a Sustainable Cultural System

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ABSTRACT

The music industry of the digital age has witnessed seemingly endless battles involving copyright. Though continuous efforts to strengthen copyright under romantic understating have benefited major actors in the industry, it has threatened creativity and net activism in the digital age. This study argues rhetoric used by the industry regarding how file sharing and digital environments hurt music sales is inadequate. It has enabled the industry and its major labels to embolden copyright and protective legislation with the government's support. This article will reveal that the issue surrounding copyright under the romantic notion is not an outdated one confined to the early era of digital music. This article will argue that major players in the industry are repeating the old strategic approach of controlling the music market. This is achieved by limiting practices of music audiences and future creativity such as the creation of amateur content and emergence of new business models.

Key words: Copyright, Creativity, Digital Culture, Popular Music, Music Industry.

1. INTRODUCTION

Since the development and dissemination of Napster, the music industry has been repeatedly reporting that it is dying due to copyright infringements that occur through illegal file sharing. The common narratives from music industry associations like IFPI and the major labels state that illegal file sharing is the major contributing factor to the decline of physical sales and the eventual destruction of their business [1]-[3]. Initially, the strategy taken by the music industry was to shut down websites like Napster and MP3.com. However, this was not successful. Because it has been difficult to track down the many other websites that are also responsible for the dissemination of music files. Another strategy has been to target consumers who are illegally downloading music files. The adoption of this approach has resulted in several ridiculous cases, which include the suing of a 12-year-old girl [4] as well as a mother who uploaded a video file of her baby, who was dancing to one of Prince's songs [5].

These approaches have never been successful in stopping file sharing on the Internet. Moreover, while the music industry has been focusing on these strategies, they have lost the opportunity to explore a novel market for newcomers such as Apple's iTunes.

The latest approach being pursued by the music industry is lobbying the government. For instance, the U.K. government

has introduced the Digital Economy Bill, which constitutes a three strikes law. On one hand, the music industry has been disseminating that they are innovative and developing various business models that consumers can enjoy in the digital age. On the other hand, the music industry and the major labels have been trying to protect the current copyright system and even strengthen and extend copyright doctrine. However, I would like to argue that this attempt isn't consistent with the new methods of cultural consumption and production in digital environments.

In this paper, the consequences of copyright, digital environments and file sharing will be analysed against the perspectives and arguments of the dominant actors in the music industry, as they share the majority of the music market. This paper will argue that the rhetoric offered by the music industry in terms of the negative effects of music sales and the supply of new works by Net activism such as file sharing and participatory culture is not totally appropriate. It has, in fact, ultimately helped the music industry and the major labels to build a bolder copyright and legislation through the support of the political and legal institutions. This circumstance could have negative effects on consumers and future creativity in our society. However, the major labels, who own the vast amount of copyrighted materials, would benefit in the music market as they have realised that licensing to profitable business models like streaming services such as Spotify serves as a valuable market. In addition, they now can also exploit their position in the digital market as they can sell back catalogues as digital music forms, a situation that is similar to the time when the music format was changed from the LP to CD. By doing so, this article will show that the issue surrounding copyright under

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the romantic notion is not an outdated one that is confined in the early era of the digital music. Rather this article offers that it is a continuous one as the big corporations like major labels in the music industry who own the majority of music catalogues will continuously try to control the circulation and reproduction of popular music in the digital age. This article will argue that the approach will be based on the direction that the major players in the music industry are trying to repeat the old strategic approach of controlling the music market to guarantee financial rewards from the secure commercialisation of the digital music market. This is achieved by limiting practices of music audiences and future creativity such as the creation of amateur content and the emergence of new business models.

2. FILE SHARING AND THE MUSIC INDUSTRY

Following the availability of file sharing, the music industry has appeared to be in real trouble because global music sales have been decreasing since 1999 [2], [3]. Academic research has tried to find the relationship between the declining sales of physical music medium and the rise of Internet usage. Several researches [6], [7] have identified that there is a positive relationship between the decrease of sales in the music industry and the file sharing activities of Internet users. However, some studies such as Hammond [8] have found disparate impacts that file sharing has beneficial effects on well-known artists and it has negative effects on unknown artists. Even some studies [9], [10] show that there is no significant relationship between music sales and online music piracy.

If we look at the one side of how the major labels have been developing their business structure and model, which is based on physical distribution and sales, they are clearly struggling in the digital age. However, this ignores another side of the business activity of the major labels, namely the exploitation of intellectual property, because most of the big labels have their own publishing companies that are still profitable. For instance, according to EMI before its labels were sold separately to Warner and Universal, EMI music's total revenue declined by 23% compared to the previous year. However, EMI's total publishing revenue grew 3% from the prior year. In addition, in the case of EMI, after being taken over by a private equity firm, Terra Firma, the music division underwent staff reductions and dropping of artists, although the publishing arm was hardly affected [11].

There has been a strong criticism that the traditional business model of the major labels, which has relied on physical distribution, does not align with the digital environment and the major labels have not been able to fully respond to the environmental changes [12]. In some respects, the major labels have been pointing the finger in the wrong direction in identifying the cause of business uncertainty and upheaval, when they should have been looking at their own actions as a contributing factor of business failure. According to the IFPI Digital Music Report 2010, John Kennedy chairman and chief executive of IFPI remarks:

'It would be great to report these innovations have been rewarded by market growth, more investment in artists, more jobs. Sadly that is not the case. Digital piracy remains a huge barrier to market growth. The slump in sales and investment in three major music markets outlined in the Report testify to this and are a warning to the rest of the world. On the positive side, we have built a US\$4.2 billion digital business full of consumer-friendly services. On the negative side, our global sales fell by around 30 per cent from 2004 to 2009, the growth of our digital sales is slowing and even the success stories reported in this publication will struggle to survive unless we address the fundamental problem of piracy.'

From these comments, it is observable that although the music industry and the major labels have been trying their best to build new business models and introduce these business models to consumers, due to constant illegal file sharing, global sales have decreased and further innovation is being deterred.

However, the account does not provide any significant details in terms of how music consumption has changed and what the consequences are. First of all, a simple calculation between file sharing and physical sales to analyse sale figures cannot account for the reason behind the decrease in music sales. Marshall [13] argues there are several possibilities for the decline of music sales such as the global economic downturn in the early 21st century, the end of the CD boom and the diversification of leisure activities such as the use of DVDs and video games, which show greater increases of sales after 2000. The author's argument regarding the cause of the CD boom is that era of replacing the LP with the CD, which has contributed to the generation back-catalogues sales for the music industry, is over. By the early 1990s, back-catalogue sales accounted for almost 40% of all album sales [14], but according to BPI [15], the sales figure dropped to 28.2% (2007) and 28.7% (2008). Secondly, several research studies have found that file sharing is not a critical factor in terms of a decrease in music sales. For instance, Oberholzer-Gee and Strumpf [10] observe in their study that actual file sharing behaviour shows that file sharing has no statistical significance on record sales, and consumer research carried out by Forrester Research also mentions that the economic downturn and competition with other media are more likely the causes of slumping music sales and, again, shows that file sharing is not fully responsible for the decline of music sales [16]. In addition, Peitz and Waelbroeck [17] argue that free downloading can generate sampling effects, which can help prompt consumers to buy legal materials with much personalised information. Another research also shows that people who are involved with file sharing spend more money than people who do not [18]. Moreover, Waldfogel [19] concludes that there is no significant evidence that the rise of Napster has contributed less investment to the new music production and mentions that "has the supply of quality music declined due to piracy? Probably not." [p. 37]. A recent research also reports that although the ultimate objective of copyright protection is to secure the supply of new works, countries that practice stronger copyright protection suffer from the lack of the supply of new works. Stronger copyright

protection eventually discourages creators from creating new works as the cost of creating new works which often relies on the existing works becomes high. Therefore, copyright which is required to work for promoting the welfare of artists like musicians can negatively influence the welfare of creators [20].

3. COPYRIGHT AND THE MUSIC INDUSTRY

Even though the effects of file sharing on the music industry are mixed, the music industry has been keen to regulate illegal file sharing on the Internet since 2005. In the U.K., the Digital Economy Bill and the three strikes law have been proposed, although ISPs do not intend to accept the proposal. Although there have been criticisms that such legislation would harm human rights and impede free speech, from the music industry's perspective, the only reason for the current turmoil was illegal file sharing. This rhetoric helped the recording industry get support from the government to force legislation in their favour as Hesmondhalgh argues 'these industries have been extremely successful in lobbying governments for changes in copyright law, changes which are decidedly favourable to the major corporations that dominate rights ownership' [21, p. 10].

The reason the music industry has been blaming illegal file sharing and lobbying the government is to protect one of their business model that is based on controlling copyright. Although it has been argued that the current copyright system, which was implemented during the 19th century, is not suited for the current digital environment [22], [23], the music industry has not been interested in this concern because the business model they have built has been profitable and they have recognised that in the digital economy, licensing based on exploitation of copyrighted materials is an important business area. As Lewis et al. [24] mentioned, the major record labels are now starting to understand that their priority, in terms of copyright, is not pure ownership, but centres on how to practice it. The music industry itself has realised that the majority of future revenues would be generated through different means, such as the licensing of digital music, public performances and advertising, all of which are based on the exploitation of copyrighted materials. The statistics from PPL show a striking increase in licensing [25]. Tony Wadsworth, former chairman and CEO of EMI and current chairman of BPI, mentions that 'the industry is moving from a transaction-based business to a usage and licensing business' [26]. Hesmondhalgh also acknowledges that 'the fate of the music business should not be understood in terms of sales alone. The music business is founded on rights, and the possibilities for exploiting these rights have grown steadily over time, and continue to grow' [21, p. 10].

The extension of the copyright term from 50 to 70 years of the author's death may also be favoured by big corporations. Although music industry associations like BPI, argue that the extension would benefit musicians, consumers and creative industries, have been eager to force this extension, it is argued that the extension is only to protect the revenue stream of big corporations—revenue that is generated by the exploitation of copyrights. For instance, the extension could help the

continuation of back-catalogue sales in the digital market. However, the majority of artists would not benefit as their royalty gains depend on contract terms [27] and 'the typical major label recording contract is structured so as to minimize whatever royalties an artist might eventually receive' [28, p. 254]. In addition, administration charges (unrelated to creative activities) from collecting societies such as the PRS (in the United Kingdom) and publishers are high [29], [30]. The Gowers (Chancellor of the Exchequer) Review of Intellectual Property [31] also recommends keeping the copyright term of 50 years because there is no significant benefit for consumers or musicians. It also argues that further creativity and innovation would be discouraged as 'an extension would only raise revenue for a small minority of sound recordings, keeping the vast majority locked up' [p. 52]. The extension of the copyright term would benefit big record labels in the future market and, as previously mentioned, the licensing and exploitation of copyright would be an important revenue source. In 2006, publishing revenue was 41% (\$6.4bn) of total music revenue compared to 29% (\$3.6bn) a decade ago, although recorded music sales fell 17% (from \$9bn to \$7.5bn) during the same period. This change in the revenue stream and the core business area of the music industry and big record labels has brought about a price increase in music catalogues [11]. The recent figures also confirm the trend that digital streaming becomes a dominant revenue source for the music industry as the revenue of the streaming market reached 2.89 billion in 2015 which became four times larger than in 2011 [32]. In particular, major record companies are dominant parties that gain the majority of incomes from the service [33].

4. DIGITAL ENVIRONMENT, COPYRIGHT AND CREATIVITY

The technological advancements of peer to peer file sharing have enabled the distribution of musical work of mash-ups and remixes by amateurs. For instance, DJ Danger Mouse's work, *The Grey Album*, which was made by vocal tracks of Jay-Z's *The Black Album* and instruments tracks of the Beatles' *The White Album* was disseminated through the Internet and could gain critical acclaim from the public [34], [35]. Although this sort of musical activity is normally regarded as illegal from the perspective of the music industry due to the copyright system, it has been a central creative force to several musical genres which have been able to gain worldwide popularity such as Hip-Hop and DJ culture [36]. It is changing the status of musical goods from physical which can only be consumed to intangible which can be shared, reproduced and recreated [23], [34], [37]. The critical reasons why such creative practice has been able to gain momentum are due to the rise of the Internet and peer to peer technology [35]. The networked society which is connected by personal computers is a powerful force to exchange and disseminate information which cannot be imagined under the centralised system of cultural production [37].

Gasser and Ernst argue that 'plasticity, processibility, and networking have transformed formerly passive receivers of information into active users/creators who are increasingly

engaged in rearranging, mixing, and redistributing digital content' [38, p. 5]. Consumers' in this century would also like to express their artistic creativity, particularly the young generation that has been exposed to modern technologies such as the Internet and are used to expressing their opinion or creativity through blogs or social networking websites. A survey by Pew Internet and American Life Project [39] reports that 57% of teens who have access to the Internet create their own contents such as a blog, 33% share their own cultural materials, and 19% use the Internet to remix existing materials such as music. The research describes the phenomenon as 'younger Americans have grown up in a world of media forms that allow them to participate in the production as well as consumption of content, by allowing teens to create and share their own digital material' [p. 2]. The OECD report, Participatory Web and User-Created Content, emphasises that 'the spread of UCC and the amount of attention devoted to it by users appears to be a significant disruptive force for how content is created and consumed and for traditional content suppliers. This disruption creates both opportunities and challenges for established market participants and their strategies' [40, p. 11].

Such extension and strengthening of the copyright may discourage future innovative and creative activities, and strong regulations of the Internet space can harm new means of cultural production such as collaboration. Hesmondhalgh [21] argues that previous legislation such as the Sonny Bono Copyright Term Extension Act has favoured big corporations in the music industry, and questions about creative practices in our society have been ignored. According to Benkler, unlike the industrial information economy of the past, which requires 'capital-intensive production and distribution techniques' [41, p. 32], the networked information economy can encourage non-market production and peer production. Due to the convenient ways to reproduce and recreate new musical works with easy access to existing musical materials and to disseminate new musical works, it has become a much wider phenomenon. This kind of the musical creativity has been regarded as blurring the points of professionalism and amateurism in terms of production and distribution [36]. However, new cultural and social production is not well suited for highly exclusive intellectual property, which has helped firms to exploit in the industrial information economy. In the popular music culture, interesting musical forms such as mash-ups, which could have been disseminated by Internet file sharing, cannot be encouraged within the current strong copyright system [42]. This kind of amateur activism and democratic creativity can be understood as 'blurring to the point of irrelevance of any meaningful distinction between professional and amateur musical practitioner and distributor' [36, p. 11]. It also understood that consumers would like to be involved not only with consumption but also production, which has not had much discussion in the past, and the strong copyright laws cannot ensure that these sorts of cultural practices would be allowed. McLeod stated that 'under the law, positions branded cultural texts as objects that can only be consumed, not (re) produced or redefined or critiqued' [35, p. 732]. Therefore, the supply of user-generated content which is often based on professional content is restricted under strong copyright protection. This

eventually can also harm professional content as amateur content which often relies on the utilisation of professional content can be a critical source for the successful positive attention on the web [20].

Apart from the new cultural activism on the Internet, popular music forms cannot ultimately be created without past materials [43], [44]. Creativity comes from re-creation and re-formulation of existing materials. According to Toynbee [44], [45], modern musical practices should be understood as socially oriented practices. Toynbee argues that the creative process of popular music has been inspired by existing works and that process has been intensified by the ability of recorded music to be delivered to wider societies. The author calls this phonographic orality. Musical creativity has been central to the creation of popular music and genres like the Blues, Hip-Hop, and DJ culture. The ability of these musical genres to gain worldwide success and popularity demonstrates that musical creativity is not based solely on originality and authenticity [36], [44], [45]. The creation of music, therefore, should be regarded as co-production, recreation, and re-organisation. There is much greater possibility that the form of musical creation would flourish further in a networked society [46]. However, this idea cannot exist in the current copyright regime, in which music producers assume creativity is about sole originality. The copyright regime eventually undermines the status of raw materials that can serve as sources for further creation [47].

Given the strong copyright system and the further attempts to extend and strengthen this system, there is a strong possibility that the creation of future innovative works cannot be ensured. Boldrin and Levine [48], [49] argue that strong government regulations, which generate a monopoly, harm future innovation and creativity. Therefore, questions concerning copyright should be centred on social and cultural consequences, not based on the major labels' arguments and resentments. McLeod asserts that 'the Internet is the Wild West of today, sort of like hip-hop in the late 1980s before laws and bureaucracies limited its creative potential. I hope this will not happen to the Internet, but history shows that the creative door eventually slams shut' [42, p. 83].

5. THE MUSIC INDUSTRY IN THE DIGITAL AGE

According to Global Music Report [32], the sales of digital music have become a dominant feature as it exceeds the physical format. Subscribers to the subscription models had surged from 20 million in 2012 to 68 million in 2016. The report shows that in the digital music sector, streaming has become a major force driving the sales of digital music and the fastest growing revenue source in the music industry although downloading has declined. The major forces in the industry are also encouraging subscriptions to legitimate music services like Spotify and Tidal which advertise that they allow access to full catalogues anytime and anywhere.

For accessing such services, each one typically charges around \$10 per month. Although it seems like a fairly low price, the statistics tell a different story as IFPI reports that in 1999, when the industry was prosperous, average music consumers in

the world spent around \$64 per year [50]. Therefore, paying \$10 per month which becomes \$120 per year is a significantly increased figure for the industry. They are now therefore enjoying the environment that they can extract much monetary value from music audiences. Here, the term, access, is important as it implies that subscribers are only allowed to listen to music by entering the service and the experience of music consumption is limited in the boundary of the service. As they keep the music audiences and their practices in the services, they have full control of circulation and reproduction of popular music and are able to prohibit any practices that may interfere their interests. In addition, the users only get access to content from subscription services rather than owning any content. Stopping any subscriptions to the services means the users are entitled to nothing [51].

Therefore, the proliferation of streaming services like Spotify needs to be considered as another form of regulating the music market for the favor of the major players in the music industry. They now act as prime investors of the services as they become key shareholders of the services like Spotify and Deezer. The music industry will try to encourage consuming major music streaming services as it will enable them to govern the controlling the circulation and reproduction of popular music in the digital age. In addition, it guarantees the constant supply of revenues in an uncertain market [51]. Particularly, the major record companies try to expand the usage of the services as the majority of revenues of the services are paid to the companies due to the loyalty payment system. For example, the loyalty payment system of Spotify is based on a market share which distributes overall revenue by overall streams rather than calculating loyalty based on only paid members' listening habits. Therefore dominant companies gain much revenues as it calculates all streaming figures both from paid members and free membership holders [33].

It has taken many years for the dominant companies in the music industry to build a stable and profitable system in the digital age. The players have been able to build a system in which they are able to keep the old industry power structure. Therefore, they will try to keep the existing industry dynamics rather than seeking innovation that might bring another disturbance. The music industry will not particularly encourage the emergence of new business models where they cannot fully control their intellectual properties apart from the verified models. They do not particularly pursue competition as they have some degree of control for major streaming services like Apple Music. They will use the old strategic approach of the monopoly of circulation and reproduction of popular music to minimise possible risk of rising new models that they cannot control [52]. Rather they will keep and raise the barrier of entry to digital music services as they request new businesses to pay a large sum of upfront fees for using their catalogues. This means that innovation in the industry almost entirely will be controlled by the major actors and they will try to keep the industry in their favor by tightly controlling the emergence of business models.

6. DISCUSSION

On one hand, the stories about file sharing are very similar to a past event—home taping. At that time, the music industry held a campaign to the effect of 'home taping is killing music,' although the arguments from the music industry were insufficient and it was hard to designate home taping as the critical force behind the decline of music sales [8]. On the other hand, the CD format, which enabled the ripping of CDs on computers and the dissemination of music files on the Internet, was forced by record companies in the late 1980s. What the record companies did was force retailers to stock CDs with the policy to not carry LPs. The format change, which was consulted by record companies, brought new revenues as consumers replaced LPs with CDs at higher prices, which was later adjudicated as price-fixing [53].

According to Frith, 'for the music industry, the age of manufacturing is now over. Companies are no longer organised around making things but depend on the creation of rights' [54, p. 57]. The realisation of the music industry and the major labels that the copyright is one of the important business areas is not new as Garofalo [14] mentions that when the music industry was in recession in the 1980s, their response was to concentrate on a few super-stars and to maximise revenues from these super-stars. The music industry diversified revenue streams through, for example, cross-media marketing with film industries. The recent attempts to extend and strengthen copyright should be interpreted as the music industry's long strategy to maintain market power and revenue streams. The attempt has persuaded the government, through the rhetoric of file sharing, to adopt a much stronger copyright system. On one hand, the music industry has been forcing music consumers to maintain the traditional music business by consuming physical goods. On the other hand, the music industry has tried to make better environments for them in order to exploit their power in the digital market. Moreover, it has been reported that the major labels have been asking for excessive advances or equity stakes in licensing music as digital music services [55].

While the music industry might argue that enforcing legislation and strengthening copyright is for the purpose of remunerating the creators, this is unreasonable as 'only a small minority of artists reach ordinary living standards from copyright income' [56, p. 5]. Moreover, Dolfsma argues that 'in reality, copyright essentially creates an environment where record companies and music publishers make large profits' [29, p. 5]. This argument also applies to the age of music streaming. Although the music industry and their representatives such as IFPI argue that by subscribing to legitimate music streaming services, music artists can be appropriately compensated, it has been reported that this has not always been a case [57].

File sharing has been a dominant issue in discussions of the impact of the Internet on the music industry, although there is a mixed result whether piracy has had a negative effect on music sales. In fact, several research has suggested that there is no clear consistent evidence that piracy has had a negative effect on the industry. According to Oberholzer-Gee and Strumpf in their recent article to revisit their initial claim in 2007 which showed that piracy is not a main contributor for the declining of record sales, "while there are many explanations

for the sharp changes in the recorded music industry over the last twenty years, our sense is that file sharing is but one small facet” [58, p. 66]. The major players in the music industry need to see the structural change in the industry such as the emergence of legal digital music services rather than blaming the democratic circulation and reproduction of popular music in the digital age which is the major contributor for the decline of the overall music sales. In this regard, Koh et al. [7] also finds that research which suggested a negative relationship between physical music sales and piracy dominantly used data before 2003 but many researches which used post-2003 data after the rise of several legal digital music services like iTunes failed to offer similar outcomes. The article concludes that the rise of legal digital music channels becomes a critical feature on the declining physical music sales and it now acts as a substitute for physical music. In addition, the term, piracy, is a very political one as it gives an impression that all practices that music audiences do on the digital space for circulation and reproduction of musical content is illegal. With this conception on the consumption of popular music in the digital era, there is a strong possibility that any new practices around popular music will continuously be discouraged. In the digital age, the value of music does not only have an economic exchange aspect but is also multi-dimensional due to the creation of non-economic values that consumers create and share [59].

The creation of musical works and cultural productions in a networked society could be threatened due to the copyright system and the music industry’s attempts to strengthen it. Garofalo states ‘corporate capital has expanded its hold over intellectual property rights in at least three critical areas: extending the terms of copyright, narrowing the arena for fair use, and creating brand-new intellectual property rights’ [14, p. 348]. The current system discourages creativity and limits access to existing works by requiring permission from an author or requiring excessive royalty payments. As Boyle argues, ‘future creators need some raw materials to work with, after all. Fair use is one important method of providing that raw material’ [40, p. 106]. However, the legally allowed practice like fair use policy can be regulated by a technological contrivance such as DRM (digital rights management) [51]. It suggests that the current copyright system and business practices might be sacrificing social and cultural creativity and innovation. According to Toynbee, ‘listening to sounds and copying them, abducting rules and breaking them: such practices are absolutely central to the mode of social authorship in popular music’ [45, p. 17]. We should enquire about the social costs which must be sacrificed as new cultural forms of the digital environment and musical practices would be undervalued. Under the current copyright system, society would not be able to see the bottom-up creativity, which Benkler [41] mentions, and future innovative musical creations. Uricchio argues that:

‘By embracing bottom-up dynamics, they will better reflect a wide range of social values, not just the ruling elite. By addressing cultural production that takes place outside of confines of corporate media, they will assume a much wider range of social granularity. And by taking advantage of the new affordances of

digitally networked culture, they will encourage widespread participation’ [46, p. 140].

Music, which is an intangible form, has been produced and sold in physical formats. For music companies, the success of artists has been measured by economics terms such as charts and sales. However, the development of digital technologies has changed almost everything in the industry. Since the rise of the Internet, which has enabled digital music files to be shared freely, the dominant discourse has been that the value of physical sound carriers has been destroyed. However, music consumers nowadays do not regard that music should only be purchased in a physical format [1]. Managers need to understand that companies can gain benefits by allowing users freedom and creativity in a broad sense [60]. Currah comments, “market-based innovation will eventually foster the development and stabilisation of models, which simultaneously enables ‘consumers’ to access and build upon creative works more easily, while also permitting the ‘producers’ of industrial creativity to earn economic returns on their assets” [60, p. 490]. As Ritzer and Jurgenson point out, “to a large degree, companies do not seek to dictate how prosumers use the sites because they do not have to and, if they did, the quality of what would be produced on the sites would likely decline” [61, p. 31-32]. In addition, restraining the freedom and creativity of users would affect the quantity of content produced. For instance, one of the critical reasons for YouTube’s success is that users have the freedom to upload any videos they like and express their individual creativity [62]. In the process, the quality and the quantity of content have increased and this has enabled the site to attract enormous numbers of users from around the globe. Therefore, the music industry needs to have a view that grassroots creativity and professional creation are in a symbiotic relationship rather than competing with each other. Practicing strong copyright can eventually negatively effect the creation of new works, the engagement of music audiences and the innovation of the industry.

7. CONCLUSION

As the history represents, the music industry has been in constant battles with the emergence of new formats, and music consumers and their behavior in the digital space. With the restrictive approach, the music industry has been trying to control the production and consumption of popular music. Although there can be criticism that addressing the issue about the democratic circulation and creation of popular music in the digital age and its relationship with copyright system is outdated, this issue is ongoing and will always be a critical one in the discussion of the production and consumption of popular music as the history of the music industry suggests. One of the key areas that the dominant firms in the music industry have been interested is how to control the circulation and reproduction of popular music. They have typically been allowed to format transformations when it promises secure monetary returns [51]. When they lose control of it, they pursue business practices to turn the situation in their favour and even legal enforcement to prohibit market practices that they do not

favour. With this approach, the music industry has often tried to prohibit legal practices using a 'technological fix' [63]. With this concept of the partial agreement of allowing experiencing music in a certain format or service, music audiences have always been in a situation where they are not allowed to have full control of goods that they bought in the market. The music audiences have been forced to pursue hyper-consumption by replacing same albums in different formats and subscribing to different digital services. Although keeping and pursuing commercial success is understood as an inevitable practice for commercial firms like record labels, a critical issue which needs to be addressed is that the major actors in the music industry always conflict with easy targets like music audiences and emerging businesses rather than blaming themselves for failing to observe changing market conditions and consumer behaviours.

REFERENCES

- [1] M. Cuadrado, M. J. Miguel, and J. D. Montoro, "Consumer Attitudes Towards Music Piracy: A Spanish Case Study," *International Journal of Arts Management*, vol. 11, 2009, pp. 4-15.
- [2] IFPI, *IFPI Digital Music Report 2009*, IFPI, 2009.
- [3] IFPI, *IFPI Digital Music Report 2010*, IFPI, 2010.
- [4] R. Boynton, "The Tyranny of Copyright?," *The New York Times*, <http://www.nytimes.com/2004/01/25/magazine/25COPYRIGHT.html>, Nov. 11, 2016.
- [5] R. Plummer, "Lawyers Go Crazy at Baby Prince Fan," *BBC*, <http://news.bbc.co.uk/2/hi/business/7599921.stm>, Nov. 11, 2016.
- [6] S. Hong, "Measuring the Effect of Napster on Recorded Music Sales: Difference-in-Differences Estimates under Compositional Changes," *Journal of Applied Econometrics*, vol. 28, 2013, pp. 297-324.
- [7] B. Koh, B. P. S. Murthi, and S. Raghunathan, "Shifting Demand: Online Music Piracy, Physical Music Sales, and Digital Music Sales," *Journal of Organizational Computing and Electronic Commerce*, vol. 24, 2014, pp. 366-387.
- [8] R. Hammond, "Profit Leak? Pre-release File Sharing and the Music Industry," *Southern Economic Journal*, vol. 81, 2014, pp. 387-408.
- [9] B. Anderson and M. Frenz, "Don't Blame the P2P File-Sharers: The Impact of Free Music Downloads on the Purchase of Music CDs in Canada," *Journal of Evolutionary Economics*, vol. 20, 2010, pp. 715-740.
- [10] F. Oberholzer-Gee and K. Strumpf, "The Effect of File Sharing on Record Sales: An Empirical Analysis," *Journal of Political Economy*, vol. 115, 2007, pp. 1-42.
- [11] K. Allen, "Music Publishing Thrives Thanks to Back Catalogues while Sales Fall on Recording Side," *The Guardian*, <http://www.theguardian.com/business/2008/jan/29/netmusic>, Nov. 14, 2016.
- [12] D. Chaney, "What Future for Fan-Funded Labels in the Music Recording Industry? The Cases of MyMajorCompany and ArtistShare," *International Journal of Arts Management*, vol. 12, 2010, pp. 44-48.
- [13] L. Marshall, "Infringers," In: S. Frith and L. Marshall (eds), *Music and Copyright*, London: Edinburgh University Press, 2004, pp. 189-208.
- [14] R. Garofalo, "From Music Publishing to MP3: Music and Industry in the Twentieth Century," *American Music*, vol. 17, 1999, pp. 318-354.
- [15] BPI, *BPI Statistical Handbook 2009*, BPI, 2009.
- [16] BBC, "Music Slump not Caused by Piracy," *BBC*, <http://news.bbc.co.uk/2/hi/entertainment/2193310.stm>, Nov. 15, 2016.
- [17] M. Peitz and P. Waelbroeck, "Why the Music Industry May Gain from Free Downloading-The Role of Sampling," *International Journal of Industrial Organization*, vol. 24, 2006, pp. 907-913.
- [18] R. Shields, "Illegal Downloaders 'Spend the Most on Music Says Poll,'" *The Independent*, <http://www.independent.co.uk/news/uk/crime/illegal-downloaders-spend-the-most-on-music-says-poll-1812776.html>, Dec. 19, 2016.
- [19] J. Waldfogel, "Digitization and Copyright: Some Recent Evidence from Music," *Communications of the AMC*, vol. 55, 2012, pp. 35-37.
- [20] C. Handke, Y. Girard, and A. Mattes, "Copyright and Innovation: Fit for Digitization?," *DIW Economic Bulletin*, vol. 16, 2015, pp. 223-230.
- [21] D. Hesmondhalgh, "Digitalisation, Music and Copyright," *CRESC Working Paper*, no. 30, 2007, pp. 1-17.
- [22] J. P. Barlow, "Selling Wine without Bottles. The Economy of Mind on the Global Net," In: B. Hugenholtz (ed), *The Future of Copyright in a Digital Environment*, London: Kluwer Law International, 1996, pp. 169-187.
- [23] P. Benghozi and T. Paris, "Authors' Rights and Distribution Channels: An Attempt to Model Remuneration Structures," *International Journal of Arts Management*, vol. 1, 1999, pp. 44-58.
- [24] G. Lewis, G. Graham, and G. Hardaker, "Evaluating the Impact of the Internet on Barriers to Entry in the Music Industry," *Supply Chain Management: An International Journal*, vol. 10, 2005, pp. 349-356.
- [25] PPL, *Annual Report 2013*, PPL, 2013.
- [26] The Independent, "The Music Industry's Future May Not Depend on Charging for Songs," *The Independent*, <http://www.independent.co.uk/news/media/online/the-music-industrys-future-may-not-depend-on-charging-for-songs-1794161.html>, Dec. 17, 2016.
- [27] M. Kretschmer, "Creativity Stifled? A Joint Academic Statement on the Proposed Copyright Term Extension for Sound Recordings," *European Intellectual Property Review*, vol. 30, 2008, pp. 341-374.
- [28] G. Rodman and C. Vanderdonckt, "Music for Nothing or, I Want My MP3," *Cultural Studies*, vol. 20, 2006, pp. 245-261.
- [29] W. Dolfsma, "How Will the Music Industry Weather the Globalization Storm?," *First Monday*, vol. 5, 2000.
- [30] F. Fabbri, "Copyright: The Dark Side of Music Business," *IAspm's 5th International Conference*, Paris, 1989.
- [31] A. Gowers, *Gowers Review of Intellectual Property*, Intellectual Property Office, 2006.

- [32] IFPI, *Global Music Report 2016*, IFPI, 2016.
- [33] L. Marshall, "Let's Keep Music Special. F-Spotify: On-demand Streaming and the Controversy over Artist Royalties," *Creative Industries Journal*, vol. 8, 2015, pp. 177-189.
- [34] J. Hughes and L. Karl, "Transmutability: Digital Decontextualization, Manipulation, and Recontextualization as a New Source of Value in the Production and Consumption of Cultural Production," *Proceedings of the 39th Hawaii International Conference on System Science*, 2006.
- [35] K. McLeod, "Consumption and Intellectual Property," In: G. Ritzer (ed), *The Blackwell Encyclopedia of Sociology Online*, 2006, pp. 729-732.
- [36] S. Howard-Spink, "Grey Tuesday, Online Cultural Activism and the Mash-up of Music and Politics," *First Monday*, Special issue. 1, 2005.
- [37] W. Uricchio, "Beyond the Great Divide: Collaborative Networks and the Challenge to Dominant Conceptions of Creative Industries," *International Journal of Cultural Studies*, vol. 7, 2004, pp. 79-90.
- [38] U. Gasser and S. Ernst, "From Shakespeare to DJ Danger Mouse: A Quick Look at Copyright and User Creativity in the Digital Age," *Berkman Center for Internet and Society at Harvard Law School Working Paper No. 2006-05*, 2006.
- [39] A. Lenhart and M. Madden, "Teen Content Creators and Consumers," *Pew Internet and American Life Project*, 2005.
- [40] OECD, *Participative Web and User-Created Content: Web 2.0, Wikis and Social Networking*, OECD, 2007.
- [41] Y. Benkler, *The Wealth of Networks: How Social Production Transforms Markets and Freedom*, Yale University Press, 2006.
- [42] K. McLeod, "Confessions of an Intellectual (Property): Danger Mouse, Mickey Mouse, Sonny Bono, and My Long and Winding Path as a Copyright Activist-Academic," *Popular Music and Society*, vol. 28, 2005, pp. 79-93.
- [43] J. Boyle, *The Public Domain: Enclosing the Commons of the Mind*, Yale University Press, 2008.
- [44] J. Toynbee, "Copyright, the Work and Phonographic Orality in Music," *Social and Legal Studies*, vol. 15, 2006, pp. 77-99.
- [45] J. Toynbee, "Creating Problems: Social Authorship, Copyright and the Production of Culture," *Pavis Paper*, vol. 3, 2001.
- [46] W. Uricchio, "Moving Beyond the Artefact: Lessons from Participatory Culture," In: Y. Lusnet, V. Wintermans (eds), *Preserving the Digital Heritage: Principles and Policies*, UNESCO, 2007, pp. 15-25.
- [47] J. Boyle, "A Politics of Intellectual Property: Environmentalism for the Net?," *Duke Law Journal*, vol. 47, 1997, pp. 87-116.
- [48] M. Boldrin and D. Levine, "The Economics of Ideas and Intellectual Property," *Proceedings of the National Academy of Sciences of the United States of America*, vol. 102, 2005, pp. 1252-1256.
- [49] M. Boldrin and D. Levine, *Against Intellectual Monopoly*, Cambridge University Press, 2008.
- [50] H. McIntyre, Hugh, "Is \$10 A Month Too Much to Charge for Unlimited Streaming," *Forbes*, <https://www.forbes.com/sites/hughmcintyre/2015/08/16/is-10-a-month-too-much-to-charge-for-unlimited-streaming/#3991bf3d68e4>, May. 01, 2017.
- [51] D. Arditi, "Digital Subscriptions: The Unending Consumption of Music in the Digital Era," *Popular Music and Society*, Forthcoming.
- [52] D. Arditi, "The New Distribution Oligopoly: Beats, iTunes, and Digital Music Distribution," *Media Fields Journal*, vol. 10, 2015, pp. 1-10.
- [53] K. McLeod, "MP3s are Killing Home Taping: The Rise of Internet Distribution and Its Challenge to the Major Label Music Industry," *Popular Music and Society*, vol. 28, 2005, pp. 521-531.
- [54] S. Frith, "Copyright and the Music Business," *Popular Music*, vol. 7, 1988, pp. 57-75.
- [55] A. Bruno, "Digital Music Firms Pay Heavy Price for Labels' Support," *Reuters*, <http://uk.reuters.com/article/2008/04/05/us-digital-music-idUKN0548272020080405>, Oct. 11, 2016.
- [56] M. Kretschmer, "Artists' Earnings and Copyright: A Review of British and German Music Industry Data in the Context of Digital Technologies," *First Monday*, vol. 10, 2005.
- [57] S. McManey, "In the Age of Streaming Music, Just How Much is a Listen Worth," *PBS Newshour*, <http://www.pbs.org/newshour/updates/age-streaming-music-just-much-listen-worth/>, May. 05, 2016.
- [58] F. Oberholzer-Gee and K. Strumpf, "The Effect of File Sharing on Record Sales, Revisited," *Information Economics and Policy*, vol. 37, 2016, pp. 61-66.
- [59] H. Choi and B. Burnes, "The Internet and Value Co-creation: The Case of the Popular Music Industry," *Prometheus*, vol. 31, 2013, pp. 35-53.
- [60] A. Currah, "Managing Creativity: The Tensions between Commodities and Gifts in a Digital Networked Environment," *Economy and Society*, vol. 36, 2007, pp. 467-494.
- [61] G. Ritzer and N. Jurgenson, "Production, Consumption, Prosumption: The Nature of Capitalism in the Age of the Digital Prosumer," *Journal of Consumer Culture*, vol. 10, 2010, pp. 13-36.
- [62] J. Burgess and J. Green, *YouTube: Online Video and Participatory Culture*, Polity, 2008.
- [63] T. Gillespie, *Wired Shut: Copyright and the Shape of Digital Culture*, MIT Press, 2007.



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