

Digitization, Remuneration, and Copyright¹

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In this short essay I basically want to make three points. First, I am going to argue that digital technology is not the problem – neither in general nor for authors and artists. Second, I try to show that nevertheless remuneration for artists is, indeed, a problem and why this is the case. And then, as a third point, I will explain why stronger copyright is not the solution to this problem.

For making my first point, I will start with two quotes. The first one is from the author of the „Hichhiker’s Guide through the Galaxy“, Douglas Adams:

“Anything that is in the world when you’re born is normal and ordinary and is just a natural part of the way the world works.

Anything that’s invented between when you’re fifteen and thirty-five is new and exciting and revolutionary and you can probably get a career in it.

Anything invented after you’re thirty-five is against the natural order of things.”

As a perfect illustration to Adam’s point may serve the next quotation, which reads as follows:

“A tuneless future is the writing on the wall. If today and tomorrow the music industry is not able to solve its economic problems, the day after tomorrow, in spite of all the super-technologies, there would be hardly any music left that could be copied.”

Sounds like just another story about how digital technology kills the music industry? Actually, this quotation is taken from the closing paragraph from an article published in 1977, in the German quality-weekly „Der Spiegel“, which warned that home taping had „fatal consequences“ for the music scene.² Consequently, the music industry associations in the UK

¹ Talk given at the 23rd Eurozine conference, May 13, 2011, Linz, Austria

² Translation by the author, for the German original see <http://www.spiegel.de/spiegel/print/d-40915958.html> [May 15, 2011]

launched a campaign in 1980, entitled “Home Taping is Killing Music. And it’s Illegal.” (see Figure 1).

But of course, as we all know, music was not killed by home taping and the following decade turned out to somehow become the Golden Age for those very companies, which had campaigned against home taping.



Figure 1: Anti-copyright infringement campaign by the British Phonographic Industry in 1980³

Is the situation today so much different? Or might be true today, what was wrong in the 1970s and early 1980s? Because again, we see intimidating and dystopic campaigns by the content industry, targeting user’s seemingly illegal practices such as file-sharing and bemoaning the demise not only of their business models but the respective cultural goods in general. Could it be that this time we are *actually* facing a tuneless, movieless and maybe even bookless future in spite of all the technological breakthroughs?

A recent study by Harvard professors Oberholzer-Gee and Strumpf argues that at least quantitatively this is unlikely to be the case.⁴ On the contrary, over the last years we can observe an unprecedented growth in the number of new feature films, music albums and books released each year (see Figure 2). This development has its roots in the fact that digital

³ Picture taken from http://en.wikipedia.org/wiki/File:Home_taping_is_killing_music.png [May 15, 2011]

⁴ See Oberholzer-Gee/Strumpf (2010): File-Sharing and Copyright, Online: <http://musicbusinessresearch.files.wordpress.com/2010/06/paper-felix-oberholzer-gee.pdf> [May 15, 2011]

technology not only makes distribution but also production of high-quality content both easier and much cheaper.

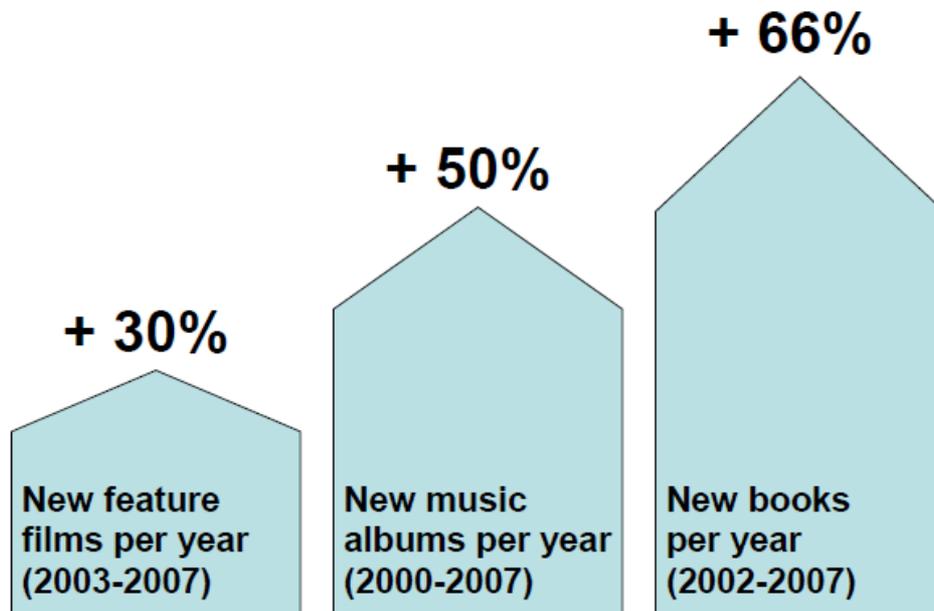


Figure 2: Estimate of growing film, music album and book releases provided by Oberholzer-Gee and Strumpf (2010)

But what are consequences for the income situation of creators? What if the creators produce more but earn less? At least in total, this need not be the case. Again, a look at the music industry is instructive, since this industry is considered to be hit particularly hard by digitization in general and file-sharing practices in particular.

In this regard, a study funded by the British collecting society PRS for music indicates that creators and artists in total might even benefit from these changes. The main results, depicted in Figure 3, deliver at least three interesting points:

First, people do *not* spend less money for music, they just spend it differently. One might say that the share of household income spent on music slightly increased over time but more money went into tickets for live performances and less into purchasing records.

Second, only a very small share of revenues earned via record or download sales actually benefits the artists. As will be shown below, the pattern that creators earn very little from copyright-based revenue streams can be found in most copyright industries. But since the share of income based on record sales was so small anyway, the related decrease was not very problematic for creators in the music industry.

Third, with regard to live performances, however, the development is the other way round – and it is that part that artists get most of their income from.

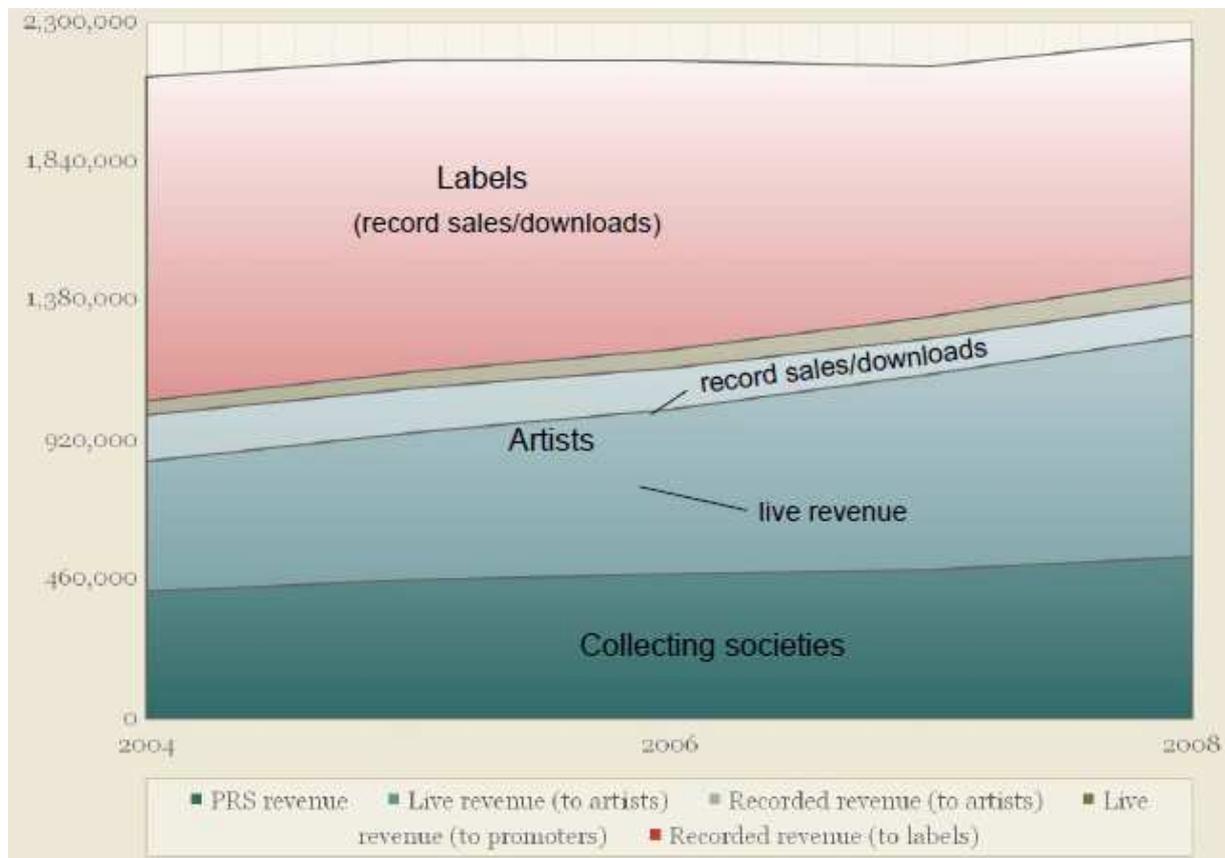


Figure 3: Study on revenue development in the UK, published by Times Online⁵

In a nutshell, one might argue that artists profit from the fact that their fans spend less money on buying CDs and spend those money for buying concert tickets instead, which is in turn better for artists because they receive a greater share from live revenues compared to those from record sales.

These are, however, aggregate numbers. They do not account for the distribution of income *among* artists. And this brings me directly to my second point, namely that remuneration for authors is a problem.

The problem, however, is not so much the level of aggregate earnings but the distribution of earnings. In their seminal study on authors' earnings in the UK and Germany⁶ – what follows will be based on their work – Martin Kretschmer and Philipp Hardwick find that in both countries over 60 percent of all professional writers need another job to survive; professional

⁵ See <http://labs.timesonline.co.uk/blog/2009/11/12/do-music-artists-do-better-in-a-world-with-illegal-file-sharing/> [May 15, 2011]

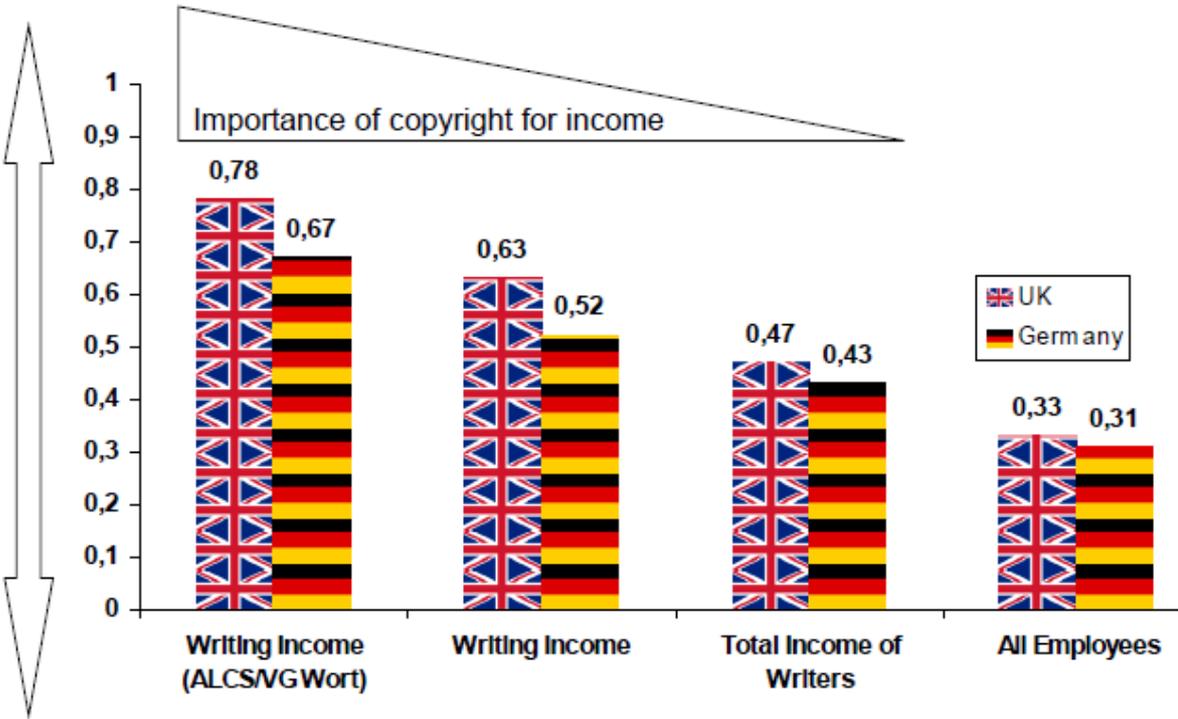
⁶ Kretschmer/Hardwick (2007): Authors' Earnings from Copyright and Non-Copyright Sources: A Survey of 25,000 British and German Writers, Online: http://www.cippm.org.uk/alcs_study.html [May 15, 2011]

writers are defined in this context as those writers who devote more than 50 percent of their time to writing. These figures already indicate how precarious the income situation for the majority of writers is.

How big of a problem the income distribution among authors actually is can be best demonstrated by presenting the Gini coefficient for writer income in Germany and the UK. The Gini coefficient is a measure of (in-)equality. A Gini coefficient of 1 means that one person earns all the income; a Gini coefficient of 0 means that all people earn the same.

Unequal distribution of income

(1 = one person earns everything)



Equal distribution of income

(0 = all earn the same)

Kretschmer/Hardwick (2007): Authors' Earnings from Copyright and Non-Copyright Sources: A Survey of 25,000 British and German Writers, Online: http://www.cipgm.org.uk/alcs_study.html

Figure 4: Gini coefficients for different sources of writing income in Germany and the UK

When reading the graph presented in Figure 4, it makes sense to start on the right hand side: the Gini coefficient for the income of all employees in the UK and Germany is about 0.3. While being far from an equal distribution, for capitalist countries this is a fairly acceptable level. The next columns to the left show the total income of writers and we can see that the distribution is substantially more unequal than among the average workforce.

However, when only looking at income directly related to writing, the situation becomes even more unequal and finally, the greatest inequality can be found in the distribution of earnings redistributed by the respective copyright collectives. Most of their funds go to a very small

but wealthy minority. The reason for this phenomenon is, of course, that cultural markets are winner-take-all-markets: those lucky few that get the most attention earn nearly all of the money. Similar graphs could be drawn for musicians and film-makers.

This graph, however, also indicates why stronger copyright is not the solution for the remuneration problems of creators and artists in general and writers in particular. The reason is that the inequality of the income distribution grows with the dependence of revenue on copyright enforcement. Or, in the words of the authors of the study, Martin Kretschmer and Philip Hardwick (p. 64):

“[T]he more copyright related the income stream, the more extreme is the distribution of income. A small number of very high earners earn a disproportionate share of total income.”

And Kretschmer and Hardwick also deliver the reason for this growing inequality: it’s the bargaining power, stupid! In their study, they also asked their respondents, whether they had succeeded in re-negotiating their contracts over the previous year. And the differences are striking. Those with the bargaining power to re-negotiate their contracts earned on average more than twice (see Figure 5).



<i>Have you succeeded in changing the terms of a contract in 2005?</i>	<i>Valid responses</i>	<i>Mean writing income (£)</i>
NO	245 (57%)	22,950
YES	180 (43%)	40,507



<i>Have you succeeded in changing the terms of a contract in 2005?</i>	<i>Valid responses</i>	<i>Mean writing income (£)</i>
NO	95 (56%)	13,080
YES	76 (44%)	28,964

Figure 5: Bargaining power of authors (taken from Kretschmer/Hardwick 2007)

In other words: it is not copyright that is important for the income situation of the majority of creators but it is the contracts with their intermediaries and their overall bargaining power.

While struggles to expand and better enforce copyright regulation won't help resolving this basic problem, stronger copyright may even worsen the inequality of the existing income distribution among artists. In its current form, copyright is only a solution for a small minority of creators and publishing houses, whereas the majority of creators and publishers would profit from a greater variety of different sources of income, several of which are not dependent on copyright at all.