

Why Impose Copyright on Non-Western Countries?

Copyright and Non-western Countries

Gradually we are starting to understand that the philosophy behind our present copyright system is less self-evident than we usually accept. We observe that copyright is mostly not in favour of artists, the public domain and Third World countries. I have proposed elsewhere that we cannot continue to support a system that favours huge cultural industries more than the public interest.¹ Furthermore copyright has an octopus-like character. It includes all expressions that contain even a vague reference to a specific work, and its reach is nearly endless.

Copyright filters artistic communication. The 'owners' of artistic expressions decide who may use, in what way, and for what price those elementary sources of our cultures expressed in theatre, dance, music, films, works of visual art and design, and literature. We should keep in mind that those 'owners' - cultural conglomerates that also control the production, distribution and promotion of artistic goods and values - are privatising and appropriating most of our cultural expressions. Free cultural communication is the victim. It is also strange that one person may privately 'own', for instance, a melody, with the consequence that others may sing or change it only in accordance with the conditions of the 'owner'. This is contrary to what has happened in all cultures everywhere in the world and dates back only to the end of nineteenth century with the introduction of the system of copyright in the Western world and the privatisation of knowledge and creativity.

Artists should make a living from their work, but this is possible without the present copyright system. This is what I analyse together with Marieke van Schijndel in our forthcoming book "Imagine! No Copyright. Better for Artists, Diversity and the Economy." At the end of this article I will summarise our analysis and proposals. The system of copyright does not benefit Third World countries any more than those in the West.

The individual appropriation of creations and inventions is a concept alien to many cultures. Artists and inventors are paid for their work - the success of which will obviously depend on their fame and other circumstances. They may be highly respected for what they have created. However, in those cultures, no justification exists for an individual to exploit a creation or an invention monopolistically for many decades. It is simply not the practice. After all, the artist or inventor carries on the work of predecessors.

Let us consider how the introduction of intellectual property rights, of which copyright is one important element, changes cultures in countries and societies unfamiliar with individual appropriation and privatisation of their fields of artistic expression and a knowledge accumulated over centuries.

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His books include *Arts under Pressure. Promoting Cultural Diversity in the Age of Globalisation* (London 2003, Zed Books), which has been published as well in Serbian, Spanish, Portuguese, Thai and Arab. Korean, Chinese, Tamil, Singalese and Indonesian translations are under way. He has edited together with Nina Obuljen a book on Unesco's Convention on the Protection and Promotion of the Diversity of Cultural Expressions. *Making it Work* (Zagreb 2006, Culturelink). He has written a book on *Imagine! No copyright. Better for artists, diversity and the economy* (together with Marieke van Schijndel) that has been published as well in Spanish in October 2008 (Gedisa, Barcelona). He prepares a book on audio and visual noise in the public space. Joost Smiers lives in Amsterdam. joost.smiers@planet.nl

The Local Level

The local level

The public domain and cultural heritage

Without being romantic, we may observe that in many parts of the world artistic creations, past and present, belong to the commons. Individuals may envy each other's creations, or, at the other end of the scale, someone may be considered a better artist and respected accordingly. However, the work of predecessors and contemporaries is always available for rewriting and reinterpretation. Creation in such societies is an ongoing process of adaptation. Artistic expression is often considered the external manifestation of inner spiritual life.

Roland Barthes declared that, in what he called ethnographic societies,

the responsibility for a narrative is never assumed by a person, but by a mediator, shaman or relator whose 'performance' - the mastery of the narrative code - may possibly be admired but never his 'genius'.²

The author is a modern figure. Of course, societies are constantly evolving and the position of artists and their work will vary accordingly. During the last decades, across the world, the relation between artists and traditional cultural life has changed in character and become less direct. Tradition has become individualised and artists turned into personalities.

Private appropriation within local communities

Increasingly, in non-Western societies, local artists appropriate an artistic idea, a melody or a cultural development originating from the collective tradition, and exploit it for their own commercial interests. This individual pretension to a 'right' begins the process of excluding others from those common cultural resources. With this transformation, the concept of copyright is quickly introduced. This phenomenon should not be a reason for amazement. The modern body of thought that supposes copyright exists for artists to earn money does not end at the borders of the Western world. One may wonder what kind of

tensions this causes in local communities. In any case, once the private appropriation of cultural resources has started, accompanied by the introduction of the notion of copyright, societies are never the same again.

What has been described here in a nutshell covers huge social transformations that have been taking place all over the world for the last couple of decades, but have recently become speedier. There is a serious need for analysis of those processes in which radical changes of cultures are at stake. They appear to be automatic and self-evident developments that do not demand specific critical attention. And that is the way it goes, with copyright as the ultimate winner.

But there is no certainty that everyone is content with such transformations. We do not know much about the tensions they bring about in different parts of the non-Western world. Are there counter-movements that claim the public cultural domain should not be undermined? What are their arguments? Where do they think a new balance should be found between the commons in the cultural field and the right of artists to make a living from their work? These are the questions discussed by Copy/South, a global network (www.copysouth.org) that deals with the consequences of the Western copyright system for non-Western countries.

Local artists and local record companies

Let us consider a typical situation. A local record company produces cassettes or CDs of local artists. In a bigger country such a record company may also be more widely active in the distribution of its music or videos on a local as well as regional scale. Let us also assume that the system of copyright does not yet exist in this situation. What kinds of agreement between artists and producers can be found in different societies? Are there any agreements at all? Does it deliver an income to artists or mainly promotion that may generate performances? What are the optimal conditions that make artists, as well as producers and distributors in specific situations, content? What happens when an artist feels that he or she has been ill-treated? Would a well-regulated system of copyright give the artist a stronger position? When does the claim arise that another artist must refrain from using another's melody?

From a Western perspective one would be inclined to think that intellectual property rights would really assist artists. But there are several reasons for doubt. The state must be strong enough to provide legitimacy to royalty and rights collecting societies and support their practical operations with an effective system of sanctions. This is not the case everywhere. Moreover, in the West, there is a notion of a creator or performer who can easily be indicated and this distinction is the building block for the present copyright system. In most cultures such a distinction does not exist. A third point is that most artists in the Western world do not profit from the existence of a copyright system; only a tiny minority gets a substantial income from this rights system. Why should this be different in parts of the world where this system has only recently been introduced? Fourth, the present practice of copyright rather aggressively privatises complete fields of creativity and knowledge development. This is disadvantageous for artists' future processes of creating and performing.

Considering all those facts, one may wonder whether artists are not better off when they negotiate directly with producers and distributors and, if necessary, associate themselves in unions to make general agreements. Are there any examples of better practices that indicate how a satisfying balance can be reached between the needs of artists and the public interest, while avoiding the introduction of the copyright system that, apparently, has more disadvantages than advantages?

Composers, writers

We seem only to have spoken so far of performing artists. But many others play a role in accomplishing works of art. For instance, in most cultures the distinction between composers and performers does not exist as rigidly as it does in the West. Rhythm and dance will also have their own creators or sources of creation. Cultural work is not conveniently arranged to include only creators and performers. Moreover, the public itself contributes actively to what might be called, at a certain moment, 'the' artistic work, but which differs from day to day.

Nor do we know much about the economic relations between the many people involved in these fluid processes of cultural creation and performance. What are their mutual payments? What is the role of intermediaries? Do they control the financial assets underpinning the whole process? What are the changes that characterise the transformation processes of the last decades? It is relevant to pose such questions whose real outcomes differ enormously between cultures. Segmentation of the different stages between idea and ultimate artistic work may occur and have serious cultural consequences. One such consequence could be that different groups of artists become economically worse off.

Tourists and ethnomusicologists

A busload of tourists arrives to occupy the space of performance that they consider exotic, or at least the dreamland conjured up by the travel agent's publicity, but without the proper context of respect. Cameras and various digital recorders register these samples of fascinating music, dance or images. Postcards are for sale, perhaps even eroticising the local culture. This phenomenon gives cause for several reflections. It is undisputable that the photographer or the person recording does more than just capture an image or a sound.

There is a strong Western belief that a sanitary cordon exists between event and photo or between singer and recording. This belief subverts moral objections to infringing the personal or cultural sphere of other people. In many cultures, such a distinction between image and reality does not exist. The image is the person and the recording cannot be distinguished from the real voice. They are the same in both cases. Probably this conviction holds much truth. There is a direct link between, for example, a performer and the image. Taking a photo means taking something from someone. Who has the right to do this if the link is so close? What kind of respect does the work and the performer deserve?

Should a work be untouchable?

The question of respect does not play a significant role in the Western perspective, but has been translated into a property right, what we call nowadays the 'moral rights' aspect of copyright. The claim is that the author is completely original and should therefore be granted an ownership title on the work: nobody should have the right to change the work without the owner's permission. This is of course underpinned by a romantic concept of the processes of creation. No person ever creates solely out of nothing. There is no poem without a former poem. Every creator and performer uses the cultural heritage and adds something to it. This addition (how beautiful it may be) cannot be an argument for giving an artist an exclusive, monopolistic ownership right for decades on a creation that is in reality based on the past, even present work of many other artists before him or her.

In most non-Western societies this notion of individual ownership on a creation or a performance does not exist. Artistic creations and performances are shared in common. For this specific quality of the work, the Western concept of ownership is not appropriate, because it suggests that a strict borderline exists between who is entitled to ownership and who is excluded. The reality in most cultures is usually fluid and not concerned with rigid forms of exclusion. More important, is the recognition that an image or a recording of a work is not different from the reality from which it comes and that it is an infringement to reproduce without consent. This recognition of primary reality has a major consequence. The concept of respect is apparently more important than the concept of ownership. Taking away from someone's deepest expression is disrespectful and in this sense infringes. This is a level of culture opposed to the shallow Western concept of ownership which cannot provide a solution for situations of this kind.

Besides this philosophical reflection, there is also a material reality. If people in other cultures consent that their work be recorded or fixed in images, then they are entitled to due remuneration. This raises two questions. Who in the community is entitled, and how should a payment be effected? It would be a helpful step forward if the best practices in this regard were collected.

What has been discussed thus far relates not only to tourists but also to the profession of ethnomusicologists who collect sounds and images in different parts of the world. If they earn money from these materials, it is reasonable that the communities from which the materials originate should profit as well. There should be proper agreement on use and payment, now and in the future. As said before, Western collection agencies are not helpful in playing the role of intermediary. Agreements would require a far more direct character.

Piracy

Clearly there cannot be piracy in societies where individual property in the form of copyright does not exist. Why not? Everybody in the community enjoys the self-evident right to use and adapt all works from past and present creatively. If individual ownership has no currency, then neither does stealing. Therefore, in most non-Western cultures, piracy is an unknown phenomenon, at least until recently. Cultures have been characterised by their ongoing processes of creative adaptations. Otherwise those cultures would not exist.

Degradation of local artistic life

And yet, the issue of piracy is now at the top of the agenda in many non-Western cultures. This mostly concerns the piracy of Western celebrity performers and sometimes the work of extremely popular local artists. It is also certain that such piracy makes Western cultural products immensely popular in many poorer countries. There are those who claim that it pushes aside local music from public attention and makes it less important within certain layers of the population.

Is this an unexpected form of cultural imperialism? It sounds exaggerated, but let us see what actually happens. In China, for instance, huge shipments of surplus CD returns from the five big global record companies illegally enter the market. This import, called *dakos* in Chinese, has two remarkable characteristics. First, the market is quickly inundated with these illegal imports, even though it seems unlikely that record companies would immediately have such bulk returns on their best-selling stars. Second, the CDs have a notch cut in the edge. The purpose of this notching is to make them unusable, but it only affects the first bit of music on the CD.

If there are surplus returns, would it not be more effective to cut them into pieces? One might think that the cultural industries have a vested interest in promoting their artists in parts of the world where people do not have the money to pay normal prices. Moreover, what is forbidden (pirated CDs in this case) is always desirable. Rumour has it that record companies themselves distribute legal CDs and so-called cheap pirated copies at the same time. Of course, not all piracy originates with big record companies. There are many entrepreneurs, and politicians too, who make big profits from piracy.

What would happen to piracy if the present copyright system were abolished, as I have proposed? There is only one possible answer. Piracy would cease to be attractive. If a work is immediately in the public domain after its publication, everybody will feel free to copy it. It is no longer an illegal activity.

Pirates take a financial and legal risk, and hope, and expect, that they occupy a more or less exclusive position in the market of illegal wares. If everybody may copy, bring an end to such exclusivity and the profit to be made from piracy. The open market drives out pirates. This might have an interesting cultural side effect. Without piracy, it might be expected that Western stars would no longer inundate local markets in non-Western countries. Besides that, there would no longer be any stars for two reasons. Without the protection of copyright there is no incentive to invest heavily in blockbuster films, bestseller books, and music celebrities. At the same time, the now existing cultural conglomerates would shrink and, as a consequence, market-dominating forces would disappear. In such fundamentally changed market structures, there would be no place for stars who brush aside cultural diversity from the living memory of citizens, and remove it from their choice.

The Global Level

The global level

Western cultural conglomerates

In the ongoing process of globalisation we can see Western cultural conglomerates, or their sub-labels, using artistic material from non-Western cultures on a huge scale. One could claim that this is the creative adaptation that should be stimulated, as I have argued. Everyone should have the right to make even minor creative changes to a work, as was previously tolerated and promoted in all cultures everywhere in the world. Does this mean that industrial creative adaptations do not have serious problematic aspects? I would not say so.

The main problem is that Western cultural conglomerates exploit the work being derived from non-Western cultures while controlling cultural markets all over the world. They determine the character, sphere and ambiances in which the work will be presented. This is not the kind of creative adaptation that occurs in an ongoing cycle of additions, changes and cultural dynamics within a community. A complete change of scenario follows: after we, giant cultural industries, get a grip on the work by owning its copyright, no creative adaptation will take place any more, unless we, cultural conglomerates, decide that it might or will happen, and moreover only under our conditions. This means that the cultural conglomerate alone decides what the work will be, now and in the future. This is completely contrary to the practice in other cultures where creative adaptations are the object of quarrels and enjoyment within a community, and where nobody could say, 'this work and all its possible adaptations belong forever to me'. Another problem is that

cultural industries are not by definition respectful of the work they adapt.

Ownership of copyright means that creative adaptation ends with the appropriation of artistic material from non-Western countries. Copyright is the legal limit of creative adaptation. Moreover, the price of works that the cultural industries have adapted and copyrighted is astronomic compared to what they cost and yield in non-Western local cultures. This is a discrepancy too great to be justifiable.

A fair remuneration

Ensuring that artists get fair remuneration for their work in other geographical contexts will remain a major problem. The work of non-Western artists often pops up in Western publicity or is otherwise used without the artists' knowledge. This is the case when, for instance, Western ethnomusicologists use artistic materials gathered in other parts of the world. How widespread is this phenomenon? It goes without saying that artists should be paid for such use.

But how can payments be guaranteed, or even organised, when we know that the present copyright system does not serve these artists? I can only imagine at present that the different categories of users should establish a code of conduct, facilitated by their branch organisations, for instance travel agents, record and publishing companies, designers and advertising agencies. This code would oblige users of artistic materials that originate from non-Western countries to transfer payments to the communities involved or to the individual artists. More often than not it might prove difficult to trace the source of an artistic work. In such a case the users are bound to report this to NGOs that have good cultural contacts with non-Western countries and trace the source through their networks and contacts. They should serve as the intermediaries for transfer payments. If the source cannot be found, the users should contribute a donation to the funds that support cultural developments in non-Western countries.

Contracts

More and more artists from non-Western countries are signing contracts with one of the big five globally operating record companies or with their sub-labels. If the work is distributed only in their own local or regional market, more or less the same questions will be under discussion as mentioned earlier concerning the relation between local artists and locally operating record companies. The contract that makes an artist from a non-Western country a star with global reach will not differ much from his or her counterpart from the Western world, including all the problems and objections inherent to the star system. Nevertheless, the negotiating position of artists from Africa, Asia, Latin America or from the Arab countries is weaker than that of Western artists.

Moreover, the 'rising' star must obey all the procedures of being under contract with a multinational record company. The 'sound' will be endlessly polished; concerts and tours have the one purpose of promoting a new CD; and all spontaneity disappears from the horizon. This fine-tuning will affect the artistic work of a non-Western artist more than a Western one. The latter's rhythm and tonality will remain more or less the same as when they played in the local pub. The performance will be polished a little more; and one may like it or not. But now listen to the music of a non-Western performer - this should still sound 'exotic'. And yet, the changes might be more fundamental in order to tune it to the Western ear, whatever this is supposed to be.

Amazingly, very little research has been done on what happens to the music of non-Western artists in the hands of the cultural conglomerates' producers. This is not a question of nostalgia. If musicologists can investigate what kinds of influences have penetrated the work of, for instance, Bach, why not reflect the transformation processes taking place at the moment in the music from the Arab world, Africa, Latin America or Asia as it is adapted to a global market? It should not be any more difficult to investigate these interventions. For instance, non-Western artists often have two kinds of repertoire: one they perform at home, and another they present as stars on the world-market stage. Comparisons can be made quite easily. Research would also focus on what is current in the artist's country or region, and how his or her work sounds or looks in the global context. It is strange and regrettable that such forms of analysis do not seem to be what keeps (ethno)musicologists busy.

Small record labels distributing music from non-western countries

Some thirty years ago the music, and of course also theatre and visual arts, of non-Western countries began to gain the interest of the West. One factor that facilitated this growth was that some aficionados initiated small record companies. Their purpose was, and is, to make those recordings qualitatively as good as possible; to respect the work of artists without translating it to contexts which would harm its real intentions; and to pay them fairly and as directly as possible (without losing money in bank transfers, for instance). How they will make good their returns on investment will be discussed below.

Performances in western countries

The number of concert halls where artists from non-Western countries perform has grown considerably during the last decades. What does this mean for copyright? I have already argued that collecting agencies are not appropriate organisations to ensure that non-Western artists will get their fees and royalties. It is always better to pay them as directly as possible. This is the only way to guarantee that money is not lost on the way.

Nevertheless, the question remains, whether all people who contribute to the creation and performance of the work have been fairly remunerated. In the case where there is, for instance, a composer, one may wonder whether he or she has been or will be paid by the performing artists and how this will be done.

The public domain

There is growing recognition that the public domain of creativity and knowledge is paying a high price for the cultural privatisation that is underway. From time to time the idea occurs that something like a system of collective copyright for traditional knowledge and folklore should be developed. This sounds sympathetic, but it is not realistic for several reasons.

First, apparently, the idea that what is very old must be protected from too harsh a form of privatisation, and that the cultural resources of the poorer parts of the world are liable to become victims of privatisation. Second, there is no political will to allow space for the recognition of the collective public domain. The neoliberal agenda does not provide for such a thing as 'respect for the commons', despite some hollow phrases in the WTO's Doha Declaration that something like a collective copyright should be developed. Why should respect for the commons be placed on the political agenda, all of a sudden, when the cultural interests of Third World countries are at stake? There is no reason to believe that the Western world would

make serious efforts to do something that goes against their interests, namely, to cease exploiting the knowledge and creativity of non-Western countries.

Third, intellectual property rights have been constructed around the philosophy of individual appropriation. The system of copyrights focuses on exclusive, monopolistic and long-lasting ownership rights. The concept of a fluid collective ownership does not suit this rigid legal individualism.

The Abolition of Copyright

The abolition of copyright

It may amaze but it would be better for artists and the public domain

Basic principles and practices of the copyright system are contested in the Western world. It should not amaze us that many from non-Western countries regard this system with even more doubt. It does not square with the philosophies that nourish their cultures. In this overview I have tried to bring some order to the problem by categorising it. But much more research and discussion are needed to get grip on what really is at stake. It must surely be possible to construct an adequate philosophy that combines the rights of artists to make a living, stimulates creative adaptation, recognises that much knowledge and creativity belongs to the commons, and that respects the public domain. A subsequent task would be to translate this into an adequate system to replace the existing old-fashioned copyright system. Let us try to imagine a world without copyright.

Copyright was once a means of guaranteeing artists a decent income. Aside from the question as to whether it actually functioned this way - most of them never made much, if anything, from the system - we have finally to admit that copyright serves an altogether different purpose in the contemporary world. It is now the tool that allows conglomerates in the music, publishing, imaging and movie industries to control their markets. They decide whether the materials they have laid their hands on may be used by others. And if they allow it, under what conditions and at what price does this happen? European and American legislation extends them the privilege of a window of no less than seventy years after the death of the original author. The consequence of this is the privatisation of an ever-increasing share of our cultural expressions, because this is precisely what copyright does. What else? Our democratic right to freedom of cultural and artistic exchange is slowly but surely taken away from us.

Yet, a fascinating development is taking place before our very eyes. Millions of people exchanging music and movies over the Internet refuse to accept any longer that a mega-sized company can actually own millions of melodies. So, digitalisation is gnawing away at the very fundamentals of the copyright system. But there are other concerns as well. We should recognise the reality that most artists derive no financial benefits from the copyright system, which instead wreaks its havoc on them. It is also unacceptable that we have to consume cultural creations the way they were dished out to us, and that we may change neither title nor tidbit. We thus have every reason to ponder about a viable alternative to copyright.

What might, in our vision, such an alternative conceptualisation of copyright look like? To arrive at that alternative, we first have to acknowledge that artists are entrepreneurs. They take the initiative to craft a given work and offer it on a market. Others can also take that initiative, namely producers or patrons, who

in turn employ artists. All of these artistic initiators have one thing in common: they take entrepreneurial risks.

What copyright does is precisely to limit those risks. The cultural entrepreneur receives the right to erect a protective trade barrier around his or her work, notably a monopoly to exploit the work for a near century. That protection also covers anything that resembles the work in one way or the other. That is bizarre! We must keep in mind of course that every artistic work - regardless of whether it concerns a soap opera, a composition by Luciano Berio or a movie starring Arnold Schwarzenegger - derives the better part of its substance from the work of others - in other words, from the public domain. Originality is a relative concept. In no other culture around the globe, except the contemporary Western one, could or can anyone ever call themselves the owner of a melody, an image, a set of words. It is therefore a gratuitous exaggeration to allow such work such a far-reaching protection, ownership title and risk-exclusion, because that is exactly what copyright has to offer.

Let us suppose that we do go in the direction of the abolition - the direction in which digitalisation is taking us - consequently, we would have a broad public domain of artistic expression everybody could draw. What would happen? The cultural industries would lose their monopolistic exclusivity and right on works of art, which for the main part have their roots in the public domain. There is no reason to romanticise the genius who creates out of nothing, and cultural industries are not creators at all! Nor would it make sense for cultural industries to invest heavily in blockbusters, stars and bestselling authors and in all the gadgets, t-shirts and theme parks surrounding the books, films and songs that refer to each other functioning s endless publicity tools.

However, the abolition of copyright will only properly materialise when conditions for the production, distribution and promotion of cultural goods and services are normalised in every respect. This means that dominant market positions that harm broad access to cultural communication also have to be addressed. We stress the need for cultural policies to ensure that no single enterprise can dictate the flavour, set the tone, or almost single-handedly determine what we will see, hear, read and enjoy. Always in history markets have been regulated and organised by public authorities. There is therefore nothing new in revitalising the different tonalities and possibilities of competition policies. Interestingly, as a consequence of the 2007/2008 subprime mortgage crisis, the idea of regulating markets is winning respect again.

The market-dominating practice of the cultural giants should be stopped in any case. Ronald Bettig, taking the example of films, considers it

legitimate to question the spending of as much as \$100 million or more for the production, distribution, and marketing of major feature films in terms of taxing our society's budget for cultural creativity. Many more filmic visions could be available if these resources, as well as the training and technology to produce the films, were more broadly distributed.³

Such 'normalisation' of the market would create attention space for the multitude of other artists now being excluded from public interest by the dominance of a few cultural conglomerates. While the present copyright system provides a substantial income for only a limited group of artists, this new market openness will give thousands of artists a reasonable income. Why? Because it gives them the opportunity to find audiences, readers and buyers not hindered by the market dominance of a few cultural industries.

The change from copyright to a normalisation of the cultural market by abolishing copyright and the re-installment of a level playing field also makes the artistic work less sacrosanct. It may be adapted creatively, and this should be encouraged. Nobody should have the right to freeze our cultures, as happens in the Western copyright system, and to own and filter their cultural products exclusively. It may take some time to get used to this analysis of copyright that I present here briefly. On the other hand, people who have been exchanging music and films since the Napster era, artists who sample in the digital domain, and audiences who buy pirated CDs do not think they harm the particular interests of artists. The balance has been lost between private and public interests in cultural creation, production, distribution, promotion and reception, and so these users 'normalise' this balance again!

The background of the debate on copyright concerns the concept of private ownership which dominates the ideology of the beginning of the twenty first century, versus the neglected notion that we need to have a broad public domain of knowledge and creativity. We know that, under such circumstances, discussing ownership questions is a thorny issue. Nevertheless, it is a worthwhile pursuit, because the Universal Declaration on Human Rights insists that everyone should have access to the means of communication. This Declaration also states that artists should have the right to make a living from their work. Our present copyright system hinders both purposes, and should be rethought accordingly.

One might wonder whether such protective layers - copyright and market domination - are really necessary for the evolving process of artistic creation. What then, do we think, can replace copyright? In the first place, a work will have to try its luck in the market on its own, without the protection offered by copyrights. After all, the first to market has the advantage of both time and attention advantage. This proposal strikes a fatal blow to a few cultural monopolists who, aided by copyright and market domination in the fields of production, distribution and promotion, use their stars, blockbusters, and bestsellers to monopolise the market and siphon attention away from every other artistic work produced by artists. That is problematic in our society which has a great need for plurality of artistic expression.

How do we envision this fatal blow will work? If the protective layer that copyright has to offer no longer exists, we can freely exploit all existing artistic expressions and adapt them according to our own insights. This creates a most unpleasant situation for cultural monopolists, as it deprives them of the incentive to pursue their outrageous investments in merchandising associated with a single cultural product.

The effect of our proposal is that the cultural market will be cleansed of cultural monopolists, and that the cultural and economic competition between many artists will once again be allowed to take its course. This offers new perspectives for many artists. They are no longer driven from the public eye and many of them will then, for the very first time, be able to make a living from their work. After all, they will no longer have to waste their efforts on challenging - bowing down to - the market dominance of cultural giants.

Cultural monopolists desperately want us to believe that we will not have artistic creations and therefore also no entertainment without copyright. That is nonsense. We will have more, and more diversity. A world without copyright is easy to imagine. The level playing field of cultural production is a market accessible to everyone, and will offer us all a surprisingly rich and varied menu of artistic alternatives, to which we are entitled.

Footnotes/References

Footnotes:

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