

**Setting the Scene: Challenges Facing  
The Copyright System in the Digital  
Era and the Importance of the  
International Copyright and Related  
Rights Treaties**

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# Update: WIPO Conference on the Global Digital Content Market

- "This is an exciting and fascinating evolution, with fundamental implications for cultural production in the 21st century," [says WIPO Director General](#)
- Creators are the "canaries in the coal mine" of the digital society and they need help, said Internet pioneer and futurist Jaron Lanier in
- Educate your kids: Panelist Tammy Weis, a singer and songwriter, talks to WIPO's News and Media unit about [the future of digital creativity](#).

# Update: WIPO Conference on the Global Digital Content Market

- Poised for new heights: Panelist Edgar Berger, CEO of Sony Music, tells WIPO's News and Media unit about [where the industry is headed](#).
- Not fair or equitable. Panelist Christopher Tin, a Grammy Award-winning musician, tells WIPO's News and Media unit that [artists are not getting their fair share](#).
- Piracy is not the problem. Panelist Imogen Heap, a singer and songwriter, tells WIPO's news and Media unit how [the industry needs to change](#).

# Abstract

- The global copyright system was designed during the era of physical goods.
- It was an 'analogue' era that had its own subsystems such as legal framework, licensing practices and institutional players.
- Now the world has changed and the system faces challenges from the **digital revolution** in almost every industry. What are the constant elements and what are the likely new ones?

# Fast facts 1: Digitization

- Allowing cultural (physical) goods:
  - to be converted into a 'file' and
  - disseminated seamless in the world wide web

## Fast facts 2: Dematerialisation

- There is a dematerialisation of cultural goods. Cultural goods are now accessible electronically and are traded much less as physical commodities.
- Dematerialisation has had a great impact on music, and newspaper production is declining rapidly. However, books remained an important exported and imported cultural good in some regions.

# Fast facts 3: Increased Consumption

- Consumers' increasing appetite for enjoying entertainment, in particular movies and music (incl.perf.);
- South and East Asia's role in the export of culture increased in world exports;
- Its export of cultural goods share increased from US\$28.1 billion (26%) of world exports of cultural goods in 2004 to US\$96.8 billion (46%) in 2013

- Cultural and Creative Industries (CCI) Generate US\$2,250b of Revenues – 3% of world GDP, and 29.5 Million Jobs Worldwide; exceeding those of telecom services (US\$1,570b globally), and surpass India's GDP (US\$1,900b).
  - CCI Contributed US\$200b to the Digital Economy in 2013
  - Cultural and creative content also powers sales of digital devices (TV Sets, tablets, smartphones, e-readers), which totaled US\$530b in 2013



- ‘Increasingly, economists are arguing that the slowdown in global growth is not merely cyclical but structural; there are signs that the forces that have driven globalisation for decades are starting to shift’\*
- Digitization is likely to help to transform global logistics and manufacturing sectors by replacing some physical flows with virtual flows. Digital platforms are enabling new players to participate in sectors ranging from shipping to payments.
- The knowledge-intensive portion of global flows increasingly dominates and is growing faster than capital and labor-intensive flows.

\* (Strait Times, March 6, 2016)

# Results 1: Perception of *Free-access*

- The current generation (millennials) perception of free enjoyment of entertainment’ – as a result of ‘Convenience’ (desirable, but not a ‘right’)\*
- **A fifth of UK young adults use piracy sites – in Spain, it’s a third:** report from the EUIPO, which surveyed young people in each of the 28 EU Member States.
- The main reasons given for using the illegal platforms were because it is free, or cheaper than accessing content from legal sources, according to the [report](#)\*\*
- A third of these people considered that content from illegal sources was easier to find and quicker to access than content from legal sources.

\*Robert Levine (Free Ride); \*\*‘European Citizens and Intellectual Property: Perception, Awareness and Behaviour’ published in 2013

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- Interestingly (*reason for optimism*), six out of ten young Europeans say they would stop using illegal sources to access digital content if more affordable content from legal sources was available (note: more legal streams; issue then becomes the quest for fairer share)
- However, the vast majority of young people do not buy counterfeit products online. Over half of all those questioned say they do not trust the sites which sell counterfeit goods, and 20% say they are afraid of their data being misused if they make a purchase.

# Results 2: Elimination of jobs

- Extinction of old players and emergence of new ones;
  - Fewer song writers
  - Fewer journalists
  - Fewer cartoonists
  - list goes on...
    - book shops
    - video shops
    - CD shops

# New institutional players

- aggregators
- bloggers
- influencers
- music programmers

– list goes on...

# Results 3: Distorting 'social contract'

- Copyright's exclusive rights and territoriality principles are under pressure (exclusive becoming mere remuneration?); an after effect of dematerialisation...



- Uneven distribution of revenue

# Challenges: Fixing the licensing system;

- Ensure better distribution of revenue (through statutory rates and licenses?);
- The importance of CR internet treaties
- Need of global and transparent databases.

# 1

Contracting States to the:

- Berne Convention: **171**.
- WIPO Copyright Treaty (WCT): **94** (Including from Asia: Indonesia, Japan, Malaysia, Mongolia, Philippines, ROK, Singapore)



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- WIPO Performers and Phonograms Treaty (WPPT): **94**  
(including from Asia, same as WCT)
  
- Beijing Treaty (11 ratifications/accessions) not yet in force  
(need **30**)
  
- Marrakesh Treaty (**16** ratifications/accessions) not yet in  
force (need 20). Cambodia have signed but not yet  
ratified/acceded.

# 2

- At present, only one-third of households in developing countries have access to the Internet, compared to 78% of households in developed countries (ITU, 2014).
  - which most Governments are working at

# ASEAN-6 digital population 2015



## Indonesia

Population	255.5 M
Internet users	88.1 M
Social media users	79.0 M
Mobile connections	318.5 M
Mobile social users	67.0 M



## Malaysia

Population	30.8 M
Internet users	20.6 M
Social media users	18.0 M
Mobile connections	41.9 M
Mobile social users	16.0 M



## Philippines

Population	102.4 M
Internet users	47.1 M
Social media users	48.0 M
Mobile connections	114.6 M
Mobile social users	40.0 M



## Thailand

Population	65.1 M
Internet users	35.0 M
Social media users	38.0 M
Mobile connections	97.1 M
Mobile social users	34.0 M



## Singapore

Population	5.54 M
Internet users	4.65 M
Social media users	3.70 M
Mobile connections	8.10 M
Mobile social users	3.40 M



## Vietnam

Population	90.7 M
Internet users	45.6 M
Social media users	36.0 M
Mobile connections	136.1 M
Mobile social users	29.0 M

Source: WeAre Social Nov 2015

# 3

- Governments and multinational companies were once the only actors involved in cross-border exchanges, but today digital technologies enable even the smallest company or individual entrepreneur to be a “micromultinational” that sells and sources products, services, and ideas across borders. Traditional business models are being challenged by microscale activities ranging from microwork to micropayments and microshipments.

# Setting the scene..

- Cross borders
  - Territoriality to global
  
- The need for accurate and reliable database of rights owners
  - Some industries haven't been able agree how to construct therefore achieve a global database
  
- Simplicity
  - From single exclusive right to bundled license

# Summary statement

- Balancing online monetization: Culture and Creative Industries (CCI) players face two difficulties which are :
  - trying to persuade consumers to pay for something they may have been accessing for free, and
  - extracting a fair share of the value generated by cultural content, which has been largely captured by *certain parties*, so that the internet becomes a fair-trade place for creators and their works.

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## **constant**

■ Exclusive rights

## **change**

■ Territoriality

# Sources:

- Globalisation of Cultural Trade: A Shift in Consumption  
UNESCO study 2004 - 2013
- UNESCO – CISAC study  
Cultural Times – The First Global Map of Cultural and Creative Industries
- McKinsey Global Institute: Global flows in a digital age: How trade, finance, people, and data connect the world economy, 2014
- Global entertainment and media outlook - PWC



- 'European Citizens and Intellectual Property: Perception, Awareness and Behaviour' published in 2013, EU IPO Observatory.