



**Leonhard Dobusch**

## **Bad for artists?**

*On digitization, remuneration and copyright*

According to recent research, it is not illegal copying that is threatening the livelihood of artists, as record companies tell us, but an inequality built into the existing copyright system itself. Leonhard Dobusch on why, in a winner-takes-all culture, stronger copyright protection only benefits the few.

In what follows I want to make three points. First, that digital technology is not the problem — neither in general nor for authors and artists. Second, that remuneration for artists is, however, a problem. Third, that stronger copyright is not the solution.

I will start with two quotes. The first is from Douglas Adams, author of the *Hitchhiker's Guide to the Galaxy*:

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.

Serving as a perfect illustration to Adam's point is the next quotation:

A tuneless future is the writing on the wall. If today and tomorrow the music industry is unable to solve its economic problems, then the day after tomorrow, regardless of all the super-technologies, there will be hardly any music left to be copied.

# HOME TAPING IS KILLING MUSIC



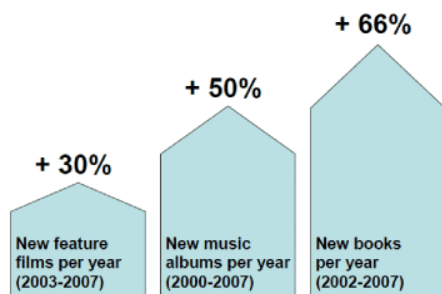
Anti-copyright infringement campaign by the British Phonographic Industry in 1980. Wikipedia.

campaign entitled "Home Taping is Killing Music. And it's Illegal."

Sounds like just another story about how digital technology is killing the music industry? Actually, the quote is taken from an article published in 1977 in *Der Spiegel*,<sup>1</sup> warning that home taping had "fatal consequences" for the music scene. And in 1980, music industry associations in the UK launched a

But, as we know, music was not killed by home taping. The following decade somehow turned out to be the Golden Age for those very companies that had campaigned against illegal copying.

Is the situation today so very different? Or could it be that what was wrong in the 1970s and early 1980s is true today? Again, we see intimidating attacks by the content industry on illegal user practices such as file-sharing and dystopian campaigns bemoaning the demise not only of their business models but of whatever cultural product it is they are selling. Could it be that this time around we really *are* facing a tuneless, movieless and maybe even bookless future, despite all the technological breakthroughs?



Estimate of film, music album and book releases, Oberholzer-Gee Strumpf (2010)

A recent study argues that, quantitatively at least, this is unlikely to be the case.<sup>2</sup> On the contrary, over the last years there has been an unprecedented growth in the number of new feature films, music albums and books

released annually. This development has its roots in the fact that digital technology not makes both the distribution and also the production of high-quality content both easier and much cheaper.

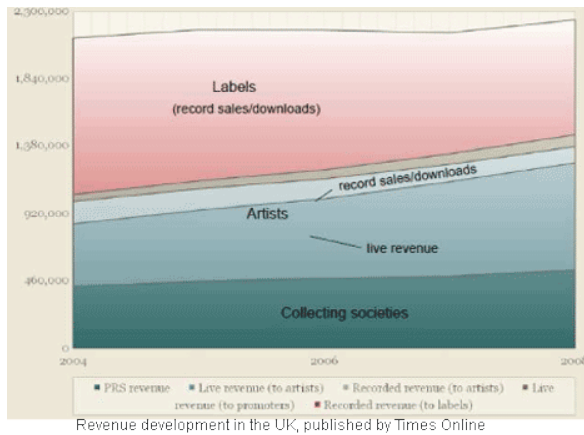
But what are consequences for the income situation of creators? What if creators produce more but earn less? At least in total, this need not be the case. Again, a look at the music industry is instructive, since this industry is considered to be particularly hard hit by digitization in general and file-sharing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

has slightly increased over time, but that more money went into tickets for live performances and less into purchasing records.

– Second, only a very small share of the revenues earned via record or download sales actually benefits the artists. Creators tend to earn very little from copyright-based revenue streams. But since the share of income based on record sales was anyway tiny, the drop has been relatively unproblematic for creators.

– Third, creators get most of their income through live performances.

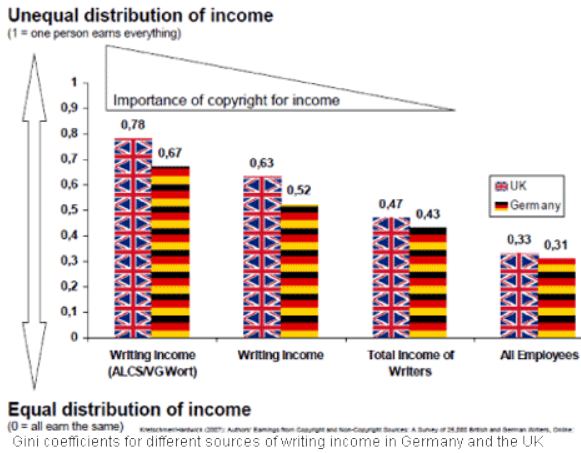


In a nutshell, artists profit from the fact that their fans spend less money on CDs and more money for buying concert tickets, which is in turn better for artists because they receive a greater share from live revenues compared to those from record sales.

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

The problem 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 Germany, Martin Kretschmer and Philip Hardwick<sup>3</sup> find that in both countries over 60 percent of all professional writers need another job in order to survive; professional writers are defined as writers who devote more than 50 per cent of their time to writing. These figures alone indicate how precarious the income situation is for the majority of writers.

How big a problem income distribution among authors in Germany and the UK actually is, is best demonstrated by using the Gini coefficient. The Gini coefficient is a measure of equality: a coefficient of 1 means that one person earns all the income; a coefficient of 0 means that all people earn the same.



When reading the graph above, 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: here distribution is substantially more unequal than among the average workforce. However if one takes income stemming directly writing, the situation becomes even more unequal. Finally, the greatest level of inequality exists in earnings redistributed by the respective copyright collecting agencies. Most of these funds go to a very small but wealthy minority.

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

However the graph also indicates that stronger copyright is not the solution to the remuneration problems of creators in general and writers in particular: inequality of income distribution grows the more that revenue depends on copyright enforcement. Or, in the words of the authors of the study: "The 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."<sup>4</sup>

The reason for this growing inequality: it's bargaining power, stupid! Kretschmer and Hardwick asked their respondents whether they had succeeded in re-negotiating their contracts over the previous year. The differences are striking. Those with the bargaining power to re-negotiate their contracts earned on average more than twice as much.

UK		
Have you succeeded in changing the terms of a contract in 2005?	Valid responses	Mean writing income (£)
NO	245 (57%)	22,950
YES	190 (43%)	40,507

Germany		
Have you succeeded in changing the terms of a contract in 2005?	Valid responses	Mean writing income (€)
NO	95 (58%)	13,080
YES	76 (44%)	28,964

Bargaining power of authors (Kretschmer/Hardwick 2007)

In other words: it isn't copyright that's important for the income situation of the majority of creators but their contracts with their intermediaries and their overall bargaining power. While struggles to

expand and enforce copyright regulation won't help to resolve this basic problem, stronger copyright may even worsen the inequality of the existing distribution of income among artists. In its current form, copyright is a solution only for a small minority of creators and publishers. The majority of creators

and publishers would profit from a greater variety of income sources, several of which do not depend on copyright at all.

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<sup>1</sup> Translation by the author, for the German original see:  
<http://www.spiegel.de/spiegel/print/d-40915958.html> [May 15, 2011].

2

See Felix Oberholzer-Gee, Koleman Strumpf, "File-Sharing and Copyright", 2010, online: <http://musicbusinessresearch.files.wordpress.com/2010/06/paper-felix-oberholzer-gee.pdf> [accessed May 15, 2011].

<sup>3</sup> Martin Kretschmer, Philip Hardwick, Authors' Earnings from Copyright and Non-Copyright Sources: A Survey of 25,000 British and German Writers, 2007. Online: [http://www.cippm.org.uk/alcs\\_study.html](http://www.cippm.org.uk/alcs_study.html) [accessed 15 May 2011].

<sup>4</sup> Ibid. 64.

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Published 2011-07-01  
Original in English  
First published in Eurozine  
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