

Is there a law of diminishing returns in the mp3 age?

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There used to be one law for the rich and one law for the poor. Now there are thousands of laws for everyone. Add to this the law of market forces.

The business return on copyright and consequently its value – as protected by the laws of copyright – can be analysed under M(y) P3 principles:

P1 – Period – The duration of the period of copyright is now rightly the subject of some debate in respect of recordings in the UK. The period of copyright offered to recordings in the UK is an anachronism. It should in my opinion certainly attract no less effective protection than for music copyright. The international digital market offers vast numbers of transactions for music, but each transaction gives rise to tiny sums of potential income to the copyright owner. The real value of copyright in many instances may arise many years later from ancillary exploitation relating to TV, films and commercials. In a world where vast catalogues of music will be competing and openly available to everyone at all times, longer periods of copyright are necessary to get a similar return from investment and to protect the value of copyright. (This is quite a separate issue to whether there should be a reversion to talent during such copyright period.)

P2 – Protection – This is not simply a case of protecting copyright owners from the plundering of pirates. This is looking to protect the value of copyright from a market that will otherwise distort and devalue such copyright by controlling the supply/demand music chain by a process of vertical and horizontal amalgamation, market manipulation and tie-ins. The reduction of the number of majors; the co-ownership / co-venturing of content owners with TV and media companies and digital music services is mirrored by multiglomerate media / magazine companies acquiring rights to artists and copyrights; advertising agencies setting up 'publishing companies'. Result – the major only signs artists with TV shows that it produces; the magazine / media company only features artists it signs; the ad agency only uses music it owns. Copyright value is encroached upon, devalued and creativity stifled by self serving business interests.

P3 – Price – Price is a complex relationship between cost of product, value and the state of the market. Historically, at least, content owners set the price of records and negotiated freely with other users of music. It is, however, now the case that digital music aggregators set their percentages; digital music providers their costs; and digital music services their prices. In the MP3 world the cost of music supply to the copyright owner is extremely high – whilst the price to the consumer is low and continues to fall. This lack of control of pricing in the marketplace by content creators and owners is a real threat.

The law of diminishing returns, unlike the law of gravity is not a natural law – but simply left to current market forces – it will pull things down in the same way. It will not be stopped simply by lengthening the period of copyright; we need to stop the other P factors which distort the market and encroach on the true value of copyright for those who continue to commit creativity, time and money in copyright ownership.

Any views expressed are personal opinions of John Benedict who appears courtesy of Benedicts, Denton Wilde Sapte and AIM.