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A Future for the Creative Economy: a report by Ruth Towse

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Abstract

This Working paper reports on discussions at three CREATe-sponsored events in which economists working in the areas of culture, media and industrial organization were invited to exchange views on the transformative impact of digitization and the internet on the creative economy and to reflect on the future of cultural production and the implications for copyright. The rise of digital platforms has transformed the possibilities for the supply, demand and finance of creative products that embody copyright works and are being made available in digital form. With discussions taking place on the future of copyright law and how to reform it to meet these developments, it is important to link the economic literature to thinking about the future shape of markets for copyright works in the creative industries. Many of the topics studied in the economic theory of industrial organisation clearly apply to markets for creative goods and, indeed, the speakers at these events are some of the leading economists who have published research in this area. Their contributions have been summarized in this Report and the overall conclusions of the three events summarized.

This summer (2016), three CREATe events took place in which economists working in the areas of culture, media and industrial organization where invited to exchange views on the transformative impact of digitization and the internet on the creative economy[1] and to reflect on the implications of emerging trends for the future of the cultural production industries and copyright. Two of these events were organized in June by Ruth Towse, one jointly sponsored with the Association for Cultural Economics International (ACEI) conference at the University of Valladolid, Spain and the second jointly sponsored with the Society for Economic Research on Copyright Issues (SERCI) at Loyola University Chicago School of Law, Chicago, USA in July. The third event was part of the CREATe Festival held in London at the Royal Society of Arts in June, organised by Martin Kretschmer.[2]

The rise of digital platforms has transformed the possibilities for the supply, demand and finance of creative products (ranging from art, archives, broadcasts and books to live music and theatrical performances). Products of the creative industries which embody copyright works (art, architecture, advertising, broadcasting, film, games, music, performing arts, publishing, museums/ heritage, etc) are now universally capable of being made available in digital form, while some also remain in 'analogue' form. With discussions taking place on the future of copyright law and how to reform it to meet these developments, it is important to link the economic literature to thinking about the future shape of markets for copyright works in the creative industries and the implications for law-making. Many of the topics studied in industrial organisation – platform pricing, network effects, long tail, price discrimination, customization – clearly apply to markets for creative goods and, indeed, the speakers at these events are some of the leading economists who have published research in this area. The hope is that these theories could be more widely applied in cultural economics and in the economics of copyright in a two-way dialogue. There is a perceived need for economists to 'translate' these theories for experts in other fields. Economics has become a closed door to many. Accordingly, the aim of this paper is to report on the discussions and convey the conclusions to a wider audience.

The speakers[3]

Paul Belleflamme, Professor of Economics at the Catholic University of Louvain, Belgium where he is attached to the Center for Operations Research and Econometrics (CORE) and to the Louvain School of Management (LSM).

Françoise Benhamou, Professor of Economics at Paris 13 University and Sciences Po-Paris and member of ARCEP, the French regulator of communications.

Marc Bourreau, Professor of Economics and Director of the Innovation and Regulation Chair at Telecom ParisTech.

1 The 2008 UNDP Creative Economy Report defined the creative economy as follows: 'an evolving concept based on creative assets potentially generating economic growth and development that can foster income-generation, job creation and export earnings while promoting social inclusion, cultural diversity and human development. It embraces economic, cultural and social aspects interacting with technology, intellectual property and tourism objectives. It is a set of knowledge-based economic activities with a development dimension and cross-cutting linkages at macro and micro levels to the overall economy.' (p. 15).

2 Video recordings were made of the ACEI event: http://www.create.ac.uk/a-future-for-the-creative-economy-resources and at the CREATe Festival: http://festival.create.ac.uk/opening-closing-and-plenary-videos/ (see Digital Futures)

3 Gillian Doyle, Professor of Media Economics at the School of Culture and Creative Arts at the University of Glasgow, who jointly organised the CREATe/ACEI panel, was indisposed and was unable to take part.

Kristofer Erickson, Lord Kelvin Adam Smith Research Fellow (now Lecturer in Intellectual Property and Innovation) at the University of Glasgow.

Joëlle Farchy, Professor of Information and Communications Science, University of Paris 1 and advisor to the French government on copyright policy and regulation of privacy and personal data.

Christian Handke, Assistant Professor in Cultural Economics, Erasmus University Rotterdam.

Morten Hviid, Professor of Law and Director of the ESRC Centre for Competition Policy, University of East Anglia.

Michael Katz, Sarin Chair in Strategy and Leadership and Professor, Department of Economics; Director, Center for Telecommunications and Digital Convergence, Haas School of Business, University of California Berkeley.

John Kay CBE FRSE FBA is a visiting Professor of Economics at the London School of Economics a fellow of St John's College, Oxford.

Joost Poort, Associate Professor at the Institute for Information Law (IViR), University of Amsterdam.

Joel Waldfogel, Frederick R Kappel Chair in Applied Economics, Strategic Management & Entrepreneurship at the Carlson School of Management, University of Minnesota.

Chair: Ruth Towse, Professor of Economics of Creative Industries, Bournemouth University UK and CREATe (University of Glasgow).

Presentations at the ACEI conference

Joel Waldfogel opened the proceedings with 'The future began in 1999!' Under the 'old' model, the production of creative products – for movies, music, books – required large investments to produce, promote, distribute them (for example, $100m for a film) and required permission from gatekeepers. Permission was required from gatekeeping investors, such as labels, studios and publishing houses, and enabling them to control their markets. His is a 'rosy' view of technological innovation. Since 1999, new technologies have made it possible to bring new creative products to market without their permission and they accordingly perceived them as a threat. New technology has, however, enabled the 'free' use of products, including the 'calamity of stealing' (aka piracy), raising concern over incentives to produce new content. It became a heresy to say that digitization was good for the creative industries. There has been an empirical horse-race of research on the impact of file sharing following Napster that has been heatedly debated. 'Sensible people' now agree that file sharing had devastating effects on revenue from record sales, which is down by two thirds in the US and Europe, leading to serious concern about whether revenue will cover fixed costs and resulting in policy discussions, driven by incumbent players, whose main concern was strengthening effective IP rights. Revenues are not the only criterion – quality is another; however, economists do not judge quality and simply observe that consumers' choice has increased along with welfare.

Realising revenues were not the main issue since costs had fallen, Waldfogel embarked on a programme of empirical research on the supply of creative products (film, music, books) showing that there has been explosive growth in the number of creative products. With digitization costs of production have fallen more than revenues. The reduction in costs has also reduced the risk of 'betting' on new products, whose success is inherently unpredictable. Ex ante losers – producers of products that would not get to market – are a higher share of ex post winners. These observations come from data on vintages and quality of products. The reduction in costs can be viewed as the equivalent of a huge subsidy. The service flow of new products of a range of creative goods has risen sharply: streaming offers bundled sales of music, films etc. and has vastly increased the number of available goods. These developments imply there is no need for a stronger copyright regime.

How big is the revenue pie? There is some evidence that the effect on total right holder revenues is neutral – that streaming income has offset decreased sales revenues. A significant source of increases is from globalised markets, leading to worries over a US hegemony. While that is mostly the case, suppliers such as Netflix now have output in many other languages.

In conclusion, Waldfogel sees the present digital era as a 'Golden Age' of creativity and consumer welfare. He predicts that royalties to creators, eg from streaming, would soon increase and that differing preferences differ across countries will keep national repertoires healthy, especially in conjunction with lower production costs.

Françoise Benhamou noted the significant disruption in the cultural sector and that there have been profound changes in consumption and in the financing of creative industries. One of the most important developments is the rise in self-production (in music, books and video activities); for example 31% of e-book sales on the Amazon Kindle Store are of self-published books. Self-publishing includes science-fiction, fantasy and romance authors, who have taken substantial market shares in all genres and are a significant part of the book publishing landscape. Authors receive a royalty of 70% of the price (compared with a 10% royalty rate in a traditional contract); even if the price is much lower for e-books than for paper books, the author may earn much more money.

Companies in the creative industries have to take this change into account: first, by considering self-published artists' and authors' platforms as places where they identify new talents (and agents try to be intermediaries); and second, they are motivated to open new departments in their traditional organization. Random House (the largest publisher in the world) tried to do so, but finally decided to withdraw from this business in January, 2016, admitting the difficulties of competing with Amazon's platform. Companies should admit that it is impossible to go on working as before: their business model must evolve for supply (bundles, subscriptions) and contracts with artists (there should be short-term contracts including all the sources of revenues for authors, for example, in the case of free e-books generating advertising revenues).

A second major issue is that of platforms and unfair competition. Platforms (Netflix, Amazon, Spotify, etc.) are intrinsically efficient. An example of a success story is Netflix, which started 15 years ago as a DVD subscription service. It is now the largest video distribution network in the world with more than 80m subscribers in 190 countries. Its annual revenue is $ 6.8 billion. Nevertheless, it makes losses at the international level ($ 333 million) with low profits of $30m. It has been disruptive for existing industries (such as Blockbuster which went bankrupt). There is, however, unfair competition linked to the ability of companies to avoid tax on almost all the profits generated from their activities – for example, in France, Google should pay 1.6 billion euros to the administration (May 2016).

There are two sources of tension: tension between the number of users and the low level of profits, in spite of free-riding behavior (using telecoms infrastructure without contributing to the costs). A further issue is price discrimination and digitized cultural products. Global revenues of streaming music are growing: for example, Spotify has 30m subscribers but runs at a loss (73m euros). So there is a paradox: access is good for users who also benefit from targeted suggestions, but profit does not return to the platform. Larger platforms can negotiate better terms with content suppliers but they pay low remuneration to artists. This is a risk both for artists and for cultural diversity.

Marc Bourreau chose to talk on the music industry as the market he knows best, noting that some of the insights from this industry may apply to others, such as the movie industry, but not necessarily. Taking the position of industrial economics, he focused on two aspects of the transformation that digitization has had on the music market: the change in business models and the vertical integration of artists (creators) in the distribution of their music through self-releasing.

Today around one third of revenues to record labels are from sales of CDs, one-third from streaming and one-third from downloads. In terms of business models, new types of contracts between artists and music labels, '360°' contracts have been adopted as a result of falling revenues. With this contract, the label manages all aspects of the performers' revenues – recorded, live and merchandise. In economic terms this type of contract internalises those externalities. Consumers are listening to more old music and intermediaries are buying up old catalogues of rights from small labels and aggregate to negotiate with streaming platforms (an analogy with patent pools). Record companies that have adapted to digitization (at various levels: artists' scouting, distribution, and promotion) release more new albums without having higher overall sales. Artists get a very low share of the value (about $4 for 1,000 streams).

Bourreau's research on vertical integration has shown that more and more artists are self-releasing music. A survey for ADAMI in 2014 showed that 58% of the musical performers surveyed had self-released albums and had a home studio, evidence of vertical integration of creators (music artists) into the commercialization and distribution of their creations. The benefits to artists are both an increased share of profits and greater control over marketing and sales effort. His research with colleagues on the Radiohead online release of 'Rainbows' in 2007 showed that the release strategy (consumers picking their own price) followed by a commercial release did not cannibalize subsequent CD sales, but rather expanded them, compared to what they would have done with a standard release (on CD and iTunes with a pre-set price).

Other research followed a sample of artists for six months to see if they faced a level playing field with superstars: could the average self-released artist succeed in promoting and attracting attention adopting online and offline distribution? The result – whether it benefitted superstars or 'underdogs' – showed nothing has changed: the top artists get most exposure. A ray of light, however, is that fans of less well-known artists make greater efforts to promote their work on Facebook.

Christian Handke (stepped in at short notice to replace Gillian Doyle who was indisposed) pointed out that the outcome of radical technological change depends also on the social context in which technology takes shape. So at the end of the day, what the digital creative economy will look like is down to us, whether we actively help shaping it or whether we succumb to the self-interested decisions of others.

Topics in the mainstream of cultural economics – cost disease of producing artworks, taste formation of consumers, intrinsic motivation of creators, the provision of public goods, organization of

production in flexible teams and decision-making under far-reaching uncertainty – are useful in considering the future of the digital creative economy. Cultural economists have a responsibility to see to it that these issues are considered in the public debate on policy and doing so requires relating cultural economics to information and innovation economics.

Falling costs of creating, disseminating and promoting information goods, such as reproducible cultural products, will see more of them supplied. With intrinsic motivation to create, the price of many, simple cultural products, such as user generated content, may fall to zero or lower but intrinsic motivation will not sustain the supply of more complex and costly creative products, say computer operating systems or episodes of 'Game of Thrones'. With more abundant and less costly information about the quality of creative products, competition may depend more on the actual appeal of creations rather than on promotion and luck, leading to greater correspondence between that appeal and their market success. Whether this will result in more or less concentration of demand depends on the heterogeneity of tastes and preferences and demand interdependence. There is every reason to believe the superstar model will persist.

Instead of the much discussed disintermediation, he believed that there has been 're-intermediation' with the rise of digital intermediaries, which are more concentrated than before. On the one hand, they are the suppliers of the technical infrastructure, like IT hardware and telecommunications, but on the other hand, digital intermediaries are running platforms, such as Amazon, Netflix and Spotify. Platforms rarely finance content production and may engage in non-price competition, for instance, by excluding non-compliant content suppliers. The new digital intermediaries are very powerful and we need to ask if they are contestable. The innovation literature tells us that as the speed of innovation slows down, greater concentration is likely to occur.

The SERCI conference

Paul Belleflamme noted that a variety of activities take place on digital platforms – reselling, streaming, redistributing and piracy. There is a complex web of direct network effects, such as sharing of playlists, word-of-mouth, buzz, recommendation and rating systems (generating and improved by big data). There are also indirect (cross group) effects on audience and advertisers on a two-sided platform in which exclusive content attracts the audience and a larger audience motivates content owners to grant exclusivity. Digital platforms adopt both price and non-price strategies to internalize these network effects: price strategies include subscription (the larger the catalogue, the lower the average price), freemium (financing through advertising). Decisions have to be made about who pays or who gets paid what – revenues from advertising vs. subscription, the income for content producers – and royalties negotiated with content owners. Non-price strategies include recommendation systems (the more consumers, the finer the data, the better the recommendations, the more attractive the service for consumers), attraction of premium content (exclusivity), retention of consumers (switching costs, playlists and recommendation cannot be ported from one platform to another) and value-added services, such as apps (critics, lyrics on Spotify etc). These may be either supplied by third-parties (another group linked to a multisided platform) or vertically integrated. There is also management of the long tail: whether to favour blockbusters or try to give more prominence to less well-known content.

There is then the issue of competition among platforms: what are the forces leading to greater concentration (agglomeration) and those working 'centrifugally' for the coexistence of platforms?

Large network effects tend to create 'winner-takes-all' market structure (or 'a few winners take most') in which the biggest get bigger and the small get smaller. Switching costs reinforce this tendency (as it is not attractive for consumers to switch platforms) as do scale economies. Against those tendencies to concentration are vertical and horizontal differentiation: for vertical, quality is an issue (for sound and picture and streaming) as is net neutrality; for horizontal differentiation, geographical markets matter and also specialization, for example, different platforms for different genres. Moreover, multi-homing – the same content on multiple platforms – also mitigates against concentration.

These counteracting forces and the complexity of the digital economy make regulation of competition as well as copyright very difficult. Economic theory lags behind these developments and needs to catch up in order to make appropriate recommendations.

Kris Erickson discussed his recent research which investigates follow-on and collective creativity in digital markets. Starting from the findings of research by Joel Waldfogel (see above) and taking into account the inherent uncertainty of creativity, he posed the question whether distributed creativity would improve the odds of success for media creators. Uncertainty of success is a long-documented feature of the creative industries, in which a relatively small number of hits enjoy the lion's share of revenues, while a long tail of offerings never generate profitability for creators. Effects on industry structure and firm behaviour traditionally included vertical and horizontal integration, ballooning production budgets and re-hashing of content, known as 'sequelitis'.

In networked digital communication, opportunities exist to reduce the risks associated with creative production, with possible implications for copyright policy. How this takes place was illustrated with the case of the 'Kerbal Space Program', a computer game offered in 'beta' access to a wide number of user-innovators who improved the product. Distributed creative production involves a number of people working on an initial idea which they then develop to the point of releasing it to the market. It has the advantage of lower costs of production as mistakes may be avoided and also of benefits observed in private collective innovation (PCI) initiatives: audiences experience private benefits from contribution to a collective project. These anecdotal observations lead to empirical questions: does distributed creative production reduce the costs of production and/or lead to better quality output? Does it outperform other modes of organizing production (such as the traditional hits-driven publishing model)?

This research has additional copyright policy implications. Copyright might obstruct or render inefficient these new forms of collaborative production, for instance, by introducing transaction costs between distributed collaborators. The proliferation of distributed production raises the question whether the justification for a strong copyright standard remains, given that PCI could reduce the inefficiency of wasted creative effort and improve conditions for PCI. This prompts the need for firm-level research into what the incentives are for making a switch to distributed creative production and what the IP implications are.

Joëlle Farchy focused her talk around two keywords: 'free' and data. In French, there are two words for 'free' - *gratuit* (free of charge) and *libre* (freedom – as in free licence, meaning freedom to use). Free-riding on the public goods nature of digital goods post Napster has led to the expansion of two-sided markets financed by advertising whereby consumers obtain content for free; however the development of adblock tools threatens this model. Accordingly, economists have to work on new forms of competition in the digital advertising area (might consumers, for example, trust adblocks firms more than advertising firms?) and on new borders between advertising and the cultural sector (like brand contents) to make advertising acceptable for consumers. Free licensing has developed

especially for software with creative commons licences, which have become a kind of natural monopoly for cultural works (a topic that could well be studied) with the purpose of modifying copyright rules via contracts that help to disseminate culture. The software model is well known – cooperation between internet users as the response to coordination and incentives. That raises a number of political questions relating to cultural production: should public authorities foster free licences for cultural works?; do cultural works share the same characteristics as software works?; why do people accept cooperation on projects without payment?; are free licences really a good way to disseminate culture?; and so on.

Turning to the role of data and the problems for the attention economy, users need tools for selecting content, matching their demand to the huge supply – known as 'recommendation'. Big data offer new possibilities of recommendation, namely algorithmic recommendation, based on internet users' behaviour; these are used by firms such as Netflix or Amazon to suggest new content to consumers. These tools have been subject to a number of criticisms, the most usual one is the risk that consumers become locked in their own world and lack cultural diversity. In fact, the real issue is that the cultural industries have lost their relationship with their customers; for example, the BBC or the New York Times do not have access to data on their own content on Facebook. For economists, then, the important question to study is the oligopolistic power of firms which are the only ones that know digital consumers' behaviour towards cultural content.

This leads to the matter of the personal data economy: personal data is *the* most important subject for future studies of the creative economy since data are the core of new business models for digital culture. That raises many questions for economists: should intellectual property rights (or property rights in general) apply to personal data? What business models that respect privacy could firms develop to regain consumers' trust? Most of all, what is the degree of consumers' acceptance of the exchange of personal data for useful services? On this last point, experimental economics could be helpful in better understanding how consumers arbitrate between lack of privacy on one side and a high quality of services, free of charge or not, even if consumers are not always conscious of the choices they make – listening to Spotify, for example. This is would make a very interesting subject of future research.

Christian Handke stated that what makes telecommunication firms and Internet platforms different from traditional intermediaries is that they rarely invest directly in the creation of content: the financial risk stays with the creators and some with traditional intermediaries, such as publishers, that still finance creativity. Markets in the creative economy are more concentrated than anything we experienced in the pre-Internet age with the result that contestability is probably lower than previously. As digital markets mature, there will be dominant designs, stable technologies and mostly incremental innovations for a long period. In this stage we cannot rely on contestability to sort everything out. We need to prepare for this and keep checks and balances in place.

As ever, there are several advantages for large incumbents: switching costs and network effects on the demand side, economics of scale and scope on the supply side. Incumbents have informational advantages from having exclusive access to a lot of market information – not only do they know earlier than the creators what is going on, but they also have information on many users and creators at the same time.

Michael Katz noted the main technological trends: it is increasingly easy to make low-cost, high-quality copies; the costs of dissemination continue to fall (bandwidth keeps getting cheaper); narrowcasting is technologically and economically feasible; and distribution technology is largely

blind to borders (which interacts with the fact that covering large distances is cheap). The implications for overall costs and benefits, in the absence of piracy, are that these developments would generally benefit content creators and content consumers alike by reducing distribution costs; however, they also reduce piracy costs and increase the costs of enforcing intellectual property rights. The effects on content-consumer welfare depends on whether the benefits from lower prices and increased access to existing content outweighs the loss in the future creation of content due to lower financial returns from the creation of content.

Large-scale piracy depends on the existence of a search engine or navigation device, as well as the existence of a (virtual) aggregator and distributor (actual distribution can be decentralized). Piracy is easier to fight the greater the extent to which there are economies of scale, including network effects, because these economies may reduce the number of important sources of pirated content. To some extent, ad blockers and ad filters can be viewed as another form of piracy because they impair content creators' exercise of their intellectual property rights.

Turning to the potential roles of legitimate digital intermediaries, these are: (1) distribution, (2) publicity and attracting consumer attention either through various forms of advertising or by serving as a seal of approval for a curated set of content, and (3) enforcing property rights. Distribution per se is likely becoming a less important role given technological trends (e.g., rapidly falling bandwidth costs). Turning to the second role, there used to be a need to screen content because of high production costs. At least for music, production costs are falling, so that screening may become more important with respect to choosing which content to promote given limited attention spans. A central question with respect to the third is role is: to what extent will digital intermediaries replace or supplement music publishers and recording companies in terms of protecting content creators' intellectual property rights? The answer may depend on the degree of exclusivity granted to distributors. When a distributor has paid for exclusive rights to content, it can have strong economic incentives to fight piracy of that content. For example, will Netflix become a copyright enforcer for video programming? When it buys exclusive rights, it becomes the party that is harmed by copyright violation (if it paid a fixed fee for the rights). There are several ways for distributors to enforce property rights: by self monitoring (it would help to have licensing data bases) – large players that are relatively easy to audit can be induced to police themselves through limited third-party monitoring; by monitoring others and undertaking enforcement activities; and by providing services, such as playlists and guides, that are complementary to the content. Distributors can use their services to help reduce piracy when they create complements to the content that are personalized to the user and tightly tied to an underlying, non-pirated version of the content, which raises its value compared to pirated versions. Distributors may also fight piracy by providing legitimate versions of the services offered by pirates (eg convenient access to content through streaming).

With respect to art and architecture, it is not evident that there will be big the effects on them as the costs of viewing originals has long been very high relative to the costs of viewing copies (eg books and posters). However, the rise of digital media may allow museums to enhance the experiences that they offer and thus make originals even more valuable.

The CREATe Festival

John Kay in his keynote presentation applied the concept of economic rent to two issues in the creative economy that have been fundamentally affected by digitization: scarcity and rent-seeking.

Economic rent – the amount paid in excess of that which a person or other resource would earn in another activity – is based on the relative scarcity of highly productive talent, which is found in sport and the creative industries. The amount of rent paid is determined by the position in the ordering of talent, the gap between the competitive rate of pay and the degree of competition for the talent. The reward to talent depends on the commercial valuation of the output in which it is used and on the supply of the range of talented individuals, which is assumed to increase at lower levels. Thus top talent is paid the most and at the lower margin, the less talented earn more or less the same as they would in another occupation. Quantity is not a substitute for quality. The implication for copyright is that it is only the intra-marginal talented creators for whom it is intended.

Digitization and the internet have altered the relative scarcities within the tripartite structure – content creation, publishing, distribution – of the creative industries. Who gets the rent depends on where scarcity arises (or is created by a cartel or regulation). Nowadays distribution costs have fallen dramatically and the gate-keeping 'bottleneck' of a limited number of gates in publishing (any intermediary) is challenged by authors self-publishing works released via internet. Costs of marketing have fallen as it is performed by social media. The former business models that were consistent with the older tripartite structure can no longer function, though the previous incumbents have sought to maintain them by lobbying for protection. Business models must change for the market economy to function and no-one has the right to have their redundant business model protected. The new FANG players (Facebook, Amazon, Netflix and Google) are monopolies, albeit transient ones, and they now acquire the rents with their new business models.

Rent-seeking by the large corporate entities in the creative industries is dangerous as it produces sclerosis in industry and holds back progress. Corporate lobbying for increased copyright protection has become more widespread with the advent of digitization. An element of it has been the spurious claim that the interest of the author (especially a star) are in alignment with the publisher. Whereas the previous tripartite industry structure and business model enabled the publisher to capture rents from the author, that is no longer possible, however. This change should improve payment to creators as they are now the relatively scarcer input. The alignment of author and publisher argument for copyright protection is no longer is persuasive – 'the train has already left the station'!

Morten Hviid as commentator agreed that there is an 'unholy alliance' between some stars and lobbyists and suggested there is a conflict between those stars and up-coming ones. Publishers are under threat from 'breakaway' self-publishing and as a result are using the supposed alignment of interests between content creators and publishers for lobbying while also squeezing a higher share of rents as they decline. He reported that in a recent survey of literary authors he had found that over half the respondents self-publish e-books, putting publishers beyond the point at which they can do much to protect themselves. Though the train has left the station, lobbyists are still able to hold back new development. The growth of streaming raises the question whether streaming services, which are natural monopolies due to the size of the catalogue they can offer, are just for publishers – the new bosses. We need to address the question what is the problem for which copyright is the answer: it is not a shortage of content.

Joost Poort pointed out that the 'nobody knows' principle leads to the need for an abundant supply; he raised the question of transaction costs due to digitization, which are exogenous to the creative industries, leading to the fragmentation of markets and asked what the response of copyright should be to the new sources of market failure rather than to rent-seeking. The growth of content shows that there is no lack of incentives to create as originally envisaged in copyright. Digital resale is not a case

of market failure to which copyright has to respond. At present the demand for a greater share of rent is what he has called a 'jealousy tax' – 'I want my share'!

Questions from the floor raised points about the effect of the manipulation of consumer demand and the changing role of users' transformative creation have on scarcity and the tripartite structure and how copyright could address the low share of rents to creators.

Kay responded by agreeing that there are complex feedbacks in the tripartite relationship and also that the alignment between publishers and creators no longer exists as rents dissipate and publisher demand a greater share: if they cannot find an economic role, publishers should get out of the way.

With respect to copyright: what is the economic problem it is there to solve? It has to respond to market reality and the repositioning of scarcity.

Ruth Towse: Summary and conclusions

Overall, there was a high degree of consensus among the panellists about the effects of digitization and the internet on the creative economy. Perhaps predictably, economists differ as to the ability of market forces alone to bring about an overall improvement in welfare from ongoing innovation and adjustment in the creative economy in the medium to long run. Some have greater faith than others in the ability of market incentives and innovation to overcome perceived negative effects of digitization and the internet but those who incline more to intervention through competition, copyright and cultural policies also recognize that the dynamic effects of technological and business model innovation make intervention difficult to gauge. Nevertheless there was considerable agreement about trends in the creative economy and their economic interpretation.

There is undoubtedly a greater supply of creative goods and services which are cheap and easily accessible to consumers (fulfilling two of the aims of media and cultural policy and copyright, which seek to promote diversity and accessibility). To economists this in itself is welfare enhancing. On the supply side, however, there are concerns about finance for the primary creation of cultural goods and the increasing concentration of their distribution in the hands of entities that neither provide investment in their production nor even show interest in them. While the former incumbent firms in the creative economy, such as record labels, have lost out to the providers of services using new technologies, new incumbent players are present, whose role (if any) in incentivising cultural creativity is different. The economic relationship between the creation of content, its publication and distribution has shifted: whereas the relative scarcity was in the hands of the gate-keeping publishers (record labels, the press, et al) with high distribution costs, it is now talented content creators who are relatively scarce. Though economists are reluctant to approach the question of quality, superstar theory, confirmed by empirical evidence on the earnings of creators and performers, shows that there is a perceived ranking of talent and the huge increase in market size due to easy and cheap distribution provides rewards accordingly.

The shift in control of distribution into the hands of online service providers – a new form of specialization – gives rise to concern over two features: one, the ever-increasing oligopoly, even monopoly, power of the online service providers due to network and scale effects inherent in the technology, but also reflecting consumer behaviour; and second, the break of the link between creation and production and distribution, which affects incentives and revenues to creators and intermediaries. These features have implications for copyright as an incentive mechanism as well as

for competition authorities. A related concern is the extent of lobbying – rent-seeking activity – which has grown exponentially over the last few decades, demanding ever more protection through copyright law, usually for incumbent corporations that have not adapted to new technologies or changed their business models. New business models developed by online service providers for supplying creative content, notably the large players, such as Netflix and Spotify, are seen as appropriate to growth of the digital creative economy.

The growth of cultural supply has increased due to two basic features of the digital creative economy: the reduction in the cost of producing, promoting and distributing creative goods and services and the access that digitization and the internet offer to creators to self-publish and promote their work. Intrinsic motivation of creators and performers has flourished in these conditions, raising questions on the one hand about the quality of unmediated output and on the other about how sustainable the model is. Again, this has implications for copyright. The evidence so far suggests that those creators who achieve success online turn to the traditional gate-keepers for finance and services of production and distribution, suggesting that the superstar/winner-takes-all tendencies of cultural markets may thereby even be strengthened. But it is also the case that new technologies and business models can be adapted by creators and performers for developing their careers for their own purposes rather than that of a commercial intermediary. Another aspect of content creation assisted by digitization is the sharing of expertise in creative product development between different contributors with no commercial incentive in mind (a type of intrinsic motivation). What the role of copyright in this mode of supply is or should be is something that economists need to research.

The economic aspects of the effect of the switch to platforms on the production and consumption of creative content can be summed up as: the impact on costs and prices, including zero prices; the technological characteristics of networks and scale on markets and on the economic organization of production, including at the level of content creation; and the changing role of distributors, some of whom are self-publishing primary creators but more significantly, businesses that increasingly are not the incumbent, gate-keeping intermediaries. The economics of platform pricing and non-price competition has become complex with implications for both creators and intermediaries as well as for regulators (competition authorities and copyright policy-makers).

For economists one of the most significant changes has been to business models as licensing takes over from sales, resulting in the development of two-sided, even multi-sided, markets. So far the main action has been competition between freemium and subscription models, with several types of the latter, such as ‘à la carte’ and ‘all you can eat’. In both, content is bundled, increasing consumer choice while at the same time blunting the incentives to the creators, who are paid a uniform (low) royalty. Two-sided markets in which advertisers play a significant role in financing distribution, in which ‘poorer’ consumers tolerate the ‘bad’ of advertising to obtain the goods they wish to access, are becoming vulnerable to developments such as adblockers that deprive creators of revenues and reduce the incentive to this form of finance. For some goods and services, that might suggest government intervention to ensure supply to achieve cultural policy objectives. It has also been suggested that adblockers and the like undermine copyright.

Overall, the implication for copyright of the economic analysis of the effects of digitization and the internet in the creative economy is that, on balance, there is no case for increasing the copyright standard and, if anything, it suggests weaker rather than stronger copyright enforcement. The main reason is the reduction in costs of producing and distributing content and the increased benefits to both consumers and producers of network effects. On welfare grounds that undermines claims for

greater protection. However, new features of internet trade present a different challenge to copyright as well as to privacy and freedom of expression.

The role of intermediaries as gate-keepers and financiers has changed; online quality evaluation is now provided by aggregators and social media and, as costs of production and marketing via internet have fallen, self-publishing has become feasible and even profitable for some. It remains to be seen if this trend continues and whether markets for content become more or less dominated by superstar and winner-takes-all effects. Economists tend to believe they will, based on the analysis of markets in the creative industries and consumers' switching costs. This has welfare implications for cultural diversity and policies for protecting national cultures. On the other hand, new entrants and multi-homing can counteract the effects of concentration.

Questions and discussion from the floor at these events focused on several topics: the effect of the increased cost of discovery to consumers with fragmented supply, the role of attention and the involvement of users in production. The question of cannibalization and new complementarity and substitutability between digital and pre-digital products was raised; so far, research suggests that complementarities win out. The question of whether platforms harm markets by bundling products was discussed, whether they are passive gate-keepers and whether their 'cut' is reasonable. With incipient competition between bundled and à la carte business models, the largest platforms may be in a position to initiate predatory pricing. The unbalanced power of platforms to control content and make recommendations was discussed in terms of both their contestability (as international companies facing national law and taxation) and, a topic that deserves more research, the use of algorithms for recommendation schemes which are based on maximizing profits. The irony of the greater use of data by platforms and explosion of the quantity of undisclosed data in the hands of private corporations is not lost on economists trying to do empirical research. It seems more difficult than ever to obtain information.

So what can we say about the future of the creative economy? Judging by the economic criterion of overall dynamic welfare, it is 'rosy'. Consumers are better off due to lower prices and vastly increased supply of creative content and there is innovation and change; creativity by non-professional, non-commercially-minded individuals is available to all with access to a computer and broadband. Producers are under pressure from market forces to innovate in all sorts of ways, whether through prices or non-price services, including quality evaluation – all trends that are necessary for growth in a market economy. Non-profit cultural organisations also benefit from these changes by being able to reach much wider audiences.

In the process, what society regards as creative cultural content may have changed but to economists what matters is the wide choice that is easily and cheaply available to consumers with various preferences and the opportunity to develop their own tastes. The issue of quality and cultural diversity is a minefield touched on by cultural economists, though avoided in copyright law for which 'originality' rather than quality is the criterion. Information economics is concerned with the question of 'attention' in terms of the waste of resources used up in search costs and accordingly, the provision of information about information goods is regarded as welfare improving. Excess supply of content may also be said to be inefficient but radical uncertainty of the success of experience goods counters that claim and justifies many 'draws from the urn'. Commercially unsuccessful investment in innovation and creativity is, after all, inherent in capitalism. In the digital creative economy a question is who is doing that investment – creators or distributors or even users?

What is clear from the many issues discussed is that there is scope for research on a wide range of topics that relate to the role of copyright in the digital creative economy: motivation of creativity, the role of self-publishing, payment mechanisms to creators, business models and pricing policies, consumer behaviour, industrial organisation of creative industries and platforms, competition and regulation of markets, interaction with cultural and wider policies, such as data and privacy. Many economists would like to see greater emphasis in policy of disclosure of data and greater transparency about the use of data, which would profoundly assist this research.

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