

Copyright Complements

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The current struggle of the music industry has led a few commentators to conclude that the development of information technology has entirely outgrown copyright law. They are of the view that copyright law was originally designed for a brick-and-mortar world where commercial intermediaries (e.g. music labels and publishers) played a central role in developing distribution channels and exploiting copyrighted works. The advent of digital technology, however, has removed the physical confines and decentralized the powers of content distribution. This transformation, sometimes referred to as “selling wine without a bottle”, allegedly renders copyright law obsolete together with traditional bottlenecks. Several high-profile scholars including a Nobel Prize laureate and a Supreme Court justice suggested that, in a world without copyright law, consumers would have wider access to low-price or even free information products and authors would be likely to continue receiving enough (if not more) incentives from alternative revenue streams such as touring, advertising, and merchandising. Accordingly, society as a whole could be better off despite individual losses of commercial intermediaries.

Notably, those who applaud the marginalization of copyright law appear to attach much importance to the phenomenon that recorded music and ancillary products/services are oftentimes complementary goods. They believe that the widespread distribution of unauthorized copies could actually serve as a promotional tool to boost such ancillary markets. In this sense, authors would indirectly benefit from unauthorized copies and should embrace online piracy if they are technology-savvy and farsighted enough. This article, based on modern economic theories of complementary goods and bundling, argues that the increasing reliance on alternative revenue streams is merely a second-best solution for the copyright industry. Such alternatives were feasible and generally in existence long before the digital age. But they used to play more of a secondary role to recorded music until uncontrolled online piracy started to plague music sales. This suggests that the first-best solution (if feasible) would be to preserve the copyright market and allow market players to discover on their own what combination of music sales and alternative revenue streams is most efficient. In addition, this article will argue that, even assuming alternative revenue streams are here to stay, copyright protection should still be vital for the sustainable development of the music industry.