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ECONOMICS OF PLATFORMS, COPYRIGHT AND REGULATION IN THE CREATIVE INDUSTRIES

RUTH TOWSE

Abstract. The article considers the role of copyright as an incentive to creativity in the era of platforms. Itself a form of regulation, copyright works through markets in the creative industries and those markets have changed radically due to platformisation. Although copyright enables creators and performers to earn from their work, only a very few can support themselves from royalties. The article relates specifically to the case of streamed music, for which various legal and economic remedies have been suggested in the UK (as elsewhere). Understanding platform economics and network effects, which lead to monopolisation in these markets, is essential for regulating them.

1. Introduction

Platforms have changed the way many goods and services are traded, introducing new problems for regulation, including copyright. Platform economics has developed new concepts based on industrial economics to analyse the way online markets work in the creative economy,

Economics has a very broad scope, such that some branches of theory are applied to one topic but not to another or, conversely, one topic attracts several applications. That is the case with economics of copyright. In a recent article in this journal, Handke (2023) argued that the field of cultural economics has much to offer the economic analysis of copyright. I argue here that developments in industrial organisation - the area of economics that deals with competition within an industry and the structure of firms - offer considerable insight into platformisation, which along with digitisation, has fundamentally altered the consumption and production of goods and services in the creative industries. Copyright law is to an extent predicated on the economic organisation of those industries and is being adapted to deal with the impact of platforms.

The origin of this article is CREATe Working Paper 2024/7 Insights in Economics Into Competition and Copyright Law, written to accompany a Keynote talk to the CREATe Spring School in April, 2024 on Platforming Creativity. The programme mostly had a focus on IP and competition law relating to platforms. The talk was intended to explain to non-economists how economics approaches copyright and competition law.

As an academic discipline, economics has its conventions and rules of what is good practice – the principles that underlie economic reasoning and how they are applied are necessary for its claim to being scientific. Although not explicitly taught in economics courses these days, the methodology of economics deals with these topics (Blaug, 1992).[1] This is important because without adherence to these principles, economists' views, for example on making policy recommendations or evaluating existing policies, would lack validity. One aspect of economic methodology is that theories should be testable empirically, in the pursuit of understanding causality (*Rerum cognoscere causas* is the motto of the London School of Economics). Economics has been applied systematically to copyright for well over 50 years, analysing its role in the economic organisation of industries in which it operates and evaluating it as a policy measure to stimulate creativity (Landes and Posner, 1988; Towse et al, 2008).

My specific interest in copyright law is in its claim to be an incentive to creativity by enabling creators and performers to earn from their works. Does it in fact do so? If so, that justifies copyright as a policy tool. How much they actually earn, however, is a separate question. As we know from empirical research, the top few have very high copyright earnings, while the vast majority do not earn enough to survive in their chosen occupation (Towse, 2001; Throsby and Petetskaya, 2024). So, there are two issues: copyright does do what it is intended but not sufficiently well to financially support all who have created copyright works. Copyright may guarantee rights but it does not guarantee how much they earn.

The distinction in economics between positive and normative economics, between efficiency and equity, is relevant here. The difference hangs on whether a value judgement is involved: does copyright enable authors to earn from their work? the answer is 'yes'; Is that income fair or equitable? That requires a value judgement. What economics can do, however, is to research royalty earnings and look at their distribution, then compare them to average earnings in the economy. That has switched a normative question into

[1] A source of confusion here is that the term 'methodology' is now widely (and inappropriately) used in relation to statistical methods. Of course, there are principles involved in statistics but that is not what economic methodology means.

a positive one. (It is worth noting in this context that legal statements about copyright consistently confuse the two, frequently referring to equity without defining it, while in practice leaving it to the market to decide what is equitable. It is essential to distinguish equity and efficiency).

This article first analyses copyright and earnings in labour markets for creators of copyright works, then goes on to examine platform economics and the implications for regulation and copyright, ending with a discussion of legal and economic solutions relating to royalties from streamed music.

2. Copyright and earnings

Economics is basically about incentives: what motivates people to do things. Incentives are often thought of as monetary – prices and other payments – but non-monetary reward such as satisfaction and pleasure are also recognised as incentives, especially in creative work (Handke, 2023). Rewards do not have to be financial – indeed, moral rights of authors and performers may be more of an incentive to some and research has shown that many authors value them more highly. Moral rights also have an economic dimension, however (Watt, 2023).

Royalties from copyright are intended as an incentive to authors to produce works of art, literature, etc. (Landes 2020). Copyright is often thought of as an ex ante incentive, though rewards are mostly ex post. Copyright owners mostly have to wait quite long periods for the full reward, although in many cases royalties taper off after a few years (IPO, 2021). It is widely known that royalty earnings are very unevenly distributed, with the few 'superstars' dominating markets (Schulze, 2020). Most professional creators and performers know that success is far from certain, either in terms of work or income from it, therefore the incentive copyright offers involves risk-taking and asymmetric information problems. Publishers and promoters also face risk but are better informed because, in general, they have more experience and knowledge about the market value of a work than the author does and can spread risk across several (or many) undertakings (Watt, 2020).

Publishers and promoters use that information to their advantage in a bargaining situation with a creator or performer.

Copyright law takes effect in the market via the contracts negotiated between the parties concerned - the author (creator/performer) and publisher (record label, film company et al) - in a deal that exchanges the right to produce and market a product based on the underlying copyright. The implications of contracting for the economic organisation of creative enterprises have been analysed by Caves (2000) who applied contract theory to the creative industries, building up a picture of contract complexity from the simple 'handshake' contract between an artist and art gallery to those in the film industry involving multiple skills and personnel. Caves' proposition is that the transfer of the rights to creators' and performers' works is required by the industry (rather than a licence to use them for a limited time) in order to protect the sunk investment from later hold-ups in a sequential chain of production.[2]

All contracts offer terms governing the use of the work and the reward due, though they may take various forms. Different contracts offer different incentives and rewards and also influence, or are influenced by, the structure of the industry. In some, employment contracts are the norm, for example, for players in an orchestra, while a pop group would have a royalty deal with a record label. When the creator or performer has an employment contract, either permanent or temporary, the rights to a copyright work done under that contract belong to the employer. Copyright contracts range from the transfer of all rights to a work for a single fee (a 'buy-out') to a royalty contract, in which rights may be split up and negotiated separately, for example, the film rights of a book title may be retained by the author in a publishing deal and licensed separately (as in the well-known case of author JK Rowling). There are many mixed examples as well but the underlying economic principles are the same.

Contractual arrangements and contracts have changed over time in the creative industries: royalty contracts are now the norm in musical and literary publishing, though only since the turn of the 20th century, before which flat fee payments which bought out all

[2]Caves' work predates the adoption of digitisation in the creative industries and did not address copyright.

rights were common (Towse, 2017). In some countries, the growth of state subsidy for the arts led to secure employment for some performers in orchestras and opera and dance companies, although not for all. Insecure funding leads to creators and performers having to face many temporary contracts and low incomes, as reported in surveys their labour markets (Di Cola, 2013; Kretschmer et al, 2019). Superstars are likely dominate labour markets even more in the digital era due to the expanded markets the Internet offers.[3]

The terms of the contract reflect the extent of competition in the on both sides of the market. Generally speaking, the creator, unless she is a superstar, has the weaker bargaining position and that is exacerbated by the economic organisation of the industry: the more concentrated is the industry, the weaker her position in relation to the enterprise with the result that new entrants may be pressured to sign away all rights to their work (D'Agostino, 2010). The growth of the huge international platforms surely exacerbates this tendency.

A topic that dominated early discussions of economics of copyright was the extent to which copyright is a cause of monopoly. In order to reward authors, prices of creative goods are raised above the lowest competitive price – the trade-off between the incentive to produce works of art etc. against reduced access to consumers (readers/music-lovers et al). Copyright collecting societies with their monopoly control of the administration of specific rights in copyright, such as the performing right or broadcasting right, have long been a target of competition authorities. Their monopoly has been justified on the grounds of economic efficiency: transaction costs of exercising their rights would be prohibitive for most copyright owners (Towse, et al, 2008). This is the 'natural monopoly' argument that has long been accepted in industrial economics: it is inefficient to have competing facilities replicating the features needed to operate the system of collection and distribution of royalties but regulation is required to protect copyright holders and users.

[3]Between 2014 and 2020 the top 1% of artists accounted for 78–80% of music streams, and the top 10% for 98%. Only 0.4% of artists achieved more than 1 million streams per month (IPO,2021).

3. Platform economics and network effects

Platform economics builds on the foundation of industrial economics (also known as industrial organisation). Industrial organisation analyses the structure of markets and firms and how competition and monopoly affect prices for consumers and other producers. As firms grow, do they dominate markets? In 'traditional' industries, what limits the size of firms is the fact that in most industries unit costs eventually rise as the scale of output increases. That is not the case in some types of enterprise with networks, such as railways and the electricity production, natural monopolies which are able to benefit from increasing returns to scale. In these industries, competing networks would be inefficient as prices would be higher for smaller scale producers. However, although they are more efficient as monopolies, on welfare grounds price regulation is necessary so that they do not exploit that monopoly to the detriment of consumers nor inhibit innovation.

Platforms are online distributors of goods and services, mostly produced by other enterprises or, in the case of social media, by individuals. They generate network effects along with the collection and exploitation of users' data, which is one of the most significant novelties of the economics of platforms. There are various types of commercial platforms: resellers, two- and multi-sided. Reseller platforms, such as Amazon, do not produce the goods they sell, acting as solely intermediaries between producer and consumer. Two-sided platforms enable interactions between the sides; card payment systems, such as Visa and e-Bay, enable digital sales to take place. Multi-sided platforms are intermediaries that enable direct interaction between distinct groups of users, facilitating network effects across or within the groups (Bacache and Bourreau, 2020).

Network effects produce demand-side externalities associated especially with online consumption. They are the source of positive benefits to both sellers and buyers of goods as well as to users of online services, such as e mail and social media sites. They resemble external benefits which, unlike those in traditional industries, may be internalised, enabling platforms to grow and dominate markets. As the digital creative industries experience massive increasing returns to scale (scalability) with marginal costs at almost

zero, traditional self-regulating forces via the market mechanism fail to inhibit expansion of platforms. The resulting competition issues are significantly different from those in the pre-digital world and are challenging for regulators (Tirole, 2017).[4]

As Aguilar et al (2023) demonstrate, platforms have helped to deliver an unprecedented explosion of new content in books, music, movies, and so forth. They have reduced search costs for new products also benefitting producers.[5] While this has increased consumer welfare by offering greater choice and easy availability, often for free, it has led on the one hand to altering existing outlets for established professional creators and performers and on the other, to excessive choice for consumers who need guidance through the thicket of newly available works. Consumers are now able to obtain a vast array of online items at the touch of a key and with significant storage space. This is not a world of scarcity but one of plenty. In fact, one aspect of scarcity that has been noted is the limit to consumers' attention and the ability to process all the goods and services that platforms make available to them.

The role of consumers' attention is increasingly recognised in connection with platform economics: consumers 'economise' on acquiring information, which has opportunity costs to them in terms of both work and leisure time. Platforms compete for consumers' attention in an era of information overload and incomplete information (Belleflamme, 2020). Even free goods and services present consumers with choices as to how much time to devote to researching products, platforms and services. Platforms compete for consumers' attention through advertising, special offers and various types of non-price competition (see below). As Herbert Simon perspicaciously observed already in the 1970s: 'a wealth of information creates a poverty of attention'.

3.1. **Pricing and network effects.** A fundamentally new aspect of the pricing of products distributed by platforms is that individual decisions impact on those of others, both

[4]For his views on monopoly regulation, see https://qz.com/1310266/nobel-winning-economist-jean-tirole-on-how-to-regulate-tech-monopolies.

[5]The impact of digitisation on creativity is a little researched topic. I have argued that the effects of digitisation are asymmetric: producers in the creative industries benefit from reduced costs etc but creators and performers do not enjoy the same benefits and so are at an increasing disadvantage in dealing with producers (Towse, 2024).

producers or consumers, via network effects. A simple example is email: the value of email to one person depends on how many people she can contact on the network. Prices therefore must be set low (or zero with the service made available for free) in order incentivise users to join. Interdependence due to network effects in online markets is coordinated by the platform via its pricing policy. Digital distribution, therefore, has given rise to new features of price setting and pricing models that are different from those in the 'nuts and bolts' economy (Bacache-Beauvallet, 2020).

Music streaming is a case in point. Listeners can choose whether to pay a subscription or access music for-free. For-free listeners have access to the bundle of titles the platform has assembled but have to put up with the adverts, while paying consumers (subscribers) pay to avoid them. The platform competes with other streaming services when setting the rate it charges advertisers, which depends on the number of listeners, who in turn are attracted by the bundle of musical titles it offers and its subscription rate, as well as what it pays out to copyright owners.

Pricing issues are complex in multi-sided markets in which platforms also have to juggle network effects, not only on each side but also cross-group effects. An example of the latter is dating platforms which charge lower prices to women than men because fewer women (apparently!) use the service; so the more men there are, the lower prices would be to women. Another example of cross group network effects is the low prices charged for game consols to attract more game developers (Orme, 2020).

Multi- vs. single homing cuts across these already complex features. Both buyers and sellers have the option to join competing platforms: listeners to commercial radio are likely to multi-home as long as radio stations are free to use and advertisers similarly can advertise on several stations. In music streaming, listeners are more likely to single-home with one subscription (and most streaming services offer similar or even the same bundle of titles). Switching costs can lead to users sticking to one platform, due to the time and trouble of trawling through information about other platforms and loss of platform specific benefits; consumers' choice of platform is not only in response to subscription prices.

3.2. **Non-price competition.** Competing platforms with similar features may offer buyers add-on services to promote non-price competition, often to one side of the market only. Examples of such services are reviews, recommendations and ratings (Belleflamme and Peitz, 2020). Platforms facilitate the exchange of opinions between consumers on the services they supply (such as reviews of books and music titles) by 'matching' groups of consumers online. Cultural goods differ from 'ordinary' goods in requiring experience and specialist knowledge to inform purchase. People don't buy a book or a painting just according to its price but choose ones with special characteristics to meet their taste. Platforms use the exchange of recommendations and ratings by consumers/users to collect data on participants' characteristics and then use it to personalise their services. Such data are not necessarily 'informed' or even reliable, however, as platforms may bias results in their own interest, which is to maximise the number of people using their platform, or even fake them (Bacache-Beauvallet, 2020).

Such non-price strategies are an aspect of online business models as they create network effects that are mainly platform specific and therefore can be utilised in attracting market participants such as advertisers, creating cross-group network effects. Platforms therefore combine non-price and pricing strategies in cross market networks, making for complex entrepreneurial decision-making and difficult challenges to regulators, such as competition authorities.

4. Implications for regulation

In general, state intervention in the market is undertaken by changing the law or through economic regulators, such as competition authorities placing restrictions on markets, for example, by limiting price rises. Both are policy instruments open to governments and in effect interact with each other, although one or the other may predominate. Copyright law is a form of regulation that seeks to incentivise the creation of works by awarding property rights which enable the rights holder to control their use. In the music industry, for example, where streaming has raised questions about fair payment to performers,

there have been moves to regulate the industry both by changing the law and through intervention by state competition authorities, as discussed below.

Platforms have both costs and benefits and regulators have to balance the two. The emergence of platform economics raises the question whether it offers any guidance to regulators. Since its beginning, the basic tenet of economics was the relative scarcity of resources in relation to needs and wants. Platforms, by contrast, are able to supply a huge range of services at almost zero cost. They do so, however, by making available goods produced by other suppliers. The cost of creation of the underlying content remains basically similar regardless of the means by which it is delivered to the consumer, although it has been argued that adoption of AI might change that (Peukert, 2019). In some creative industries, digital technologies appear to have complemented the distribution of creative work rather than substituted for it (Bakshi and Throsby, 2014).

The presence of social media platforms has opened up the possibility for creators to offer their work directly to the public and many do so, both professional and amateur; in fact, that distinction is increasingly becoming difficult to maintain.[6] Platforms are awash with free goods and services supplied by amateurs, creating more information overload and the need for ratings etc, especially in creative markets. Digitisation has led to many 'legacy' creative goods and services being made freely available online, including works out of copyright but also works still in copyright, for which the owners have either waived permission for use or are unable to control it. There has been some research showing that those self-publishers who succeed online are offered contracts with enterprises in industries, such as publishing and games (Hviid, 2019) as well as in the music industry. There is an irony here in that the early perception of the Internet was that it enabled a 'long tail' of market participation by creators counteracting the superstar tendency.[7] An 'unintended' outcome is that self-publication online by creators has reduced the search costs (A&R) of enterprises in the creative industries enabling them to select the successful ones, thus

[6]Digitisation has led to a major increase in the number of artists releasing music, up from 200,000 in 2014 to 400,000 in 2020 (CMA,2022).

[7]There has been some confusion in the use of the term 'long tail': some use it to mean that in a statistical distribution of incomes in an occupation there are more individuals to be found in the middle ranks; others use it in the sense of the superstar effect introduced by Rosen (1981), who showed that increasing market size favoured a few top earners.

reducing their risk in marketing the work. There is some suggestion that this has led to improved contractual arrangements for those who are approached this way; the topic requires further research (IPO, 2021).

Ever-increasing returns to scale amplified by with network effects have enabled platforms to expand not only the size of the market for one set of goods but also to encompass a wide range of others. The question is, what economic forces, if any, exist to rein in their expansion? The domination of Amazon, Google, Facebook, Apple and Microsoft suggest that they do not and consequently regulation of platforms and online markets is increasingly called for on both economic and non-economic grounds.

Regulation of competition and copyright on platforms requires the relevant law to be in place for that to happen, but that requires understanding the changes to the economics of the relevant markets. In order to discuss this point more concisely, I look at the example of recent suggestions in the UK for regulating the impact of music streaming on royalty earnings.

4.1. **Regulation of music streaming in the UK.** It is well-known that music streaming services, such as Spotify and Apple Music, have altered the value and distribution of royalties to songwriters and performers. The greatest impact on copyright earnings has been the rate per stream set by the platforms and the transfer of rights to a platform for the use of copyright works by the publisher in a deal in which many creators and performers had no say (Towse, 2020). Many recording deals were (and still are) for the life of copyright, which differs for authors and performers, but for both extends well beyond their lifetime, so that they find themselves locked-in with only moral rights available to control subsequent use made of their work.

To combat those developments, the UK government has followed the example of other countries, notably the USA and those in the EU, by considering the legal solution of 'contract adjustment' - the introduction of statutory reversion clauses into contracts, known as 'use it or lose it' and 'best seller' clauses, and the control of 'buy-outs' – one-off lump sum payments in a deal - to acquire all the rights in a work. Songwriters and performers, who

believe the record label they are contracted to is not treating them appropriately, would be able to pull out of the contract after a specified period and seek to improve terms with another or, indeed, with the same producer (IPO, 2023).

An alternative strategy is the investigation of competition in the market, in this case for music streaming platforms. A recent example is the UK's Competition and Markets Authority's (CMA) investigation of the market for streamed music (CMA 2022). The report inevitably noted that consumers had benefitted considerably from easier and cheaper access to music via streaming. The CMA report found no basis on competition grounds to intervene in the music streaming market but suggested that the matter of 'under-payment' of performers could be resolved through changing the law. Leaving aside the point the CMA investigation did not include an analysis of platforms (since at the time its *modus vivendi* was to focus on longstanding entry and exit and harm to consumers, which it felt were not present in the case), it is convenient to use this somewhat unusual suggestion as a basis for discussing what guidance economics might offer to the choice of policy instrument.

First is the point made by the CMA itself – that a full enquiry is expensive and lengthy (so the market could have changed by the time is reached a conclusion). The latter point possibly reflects the typical economist's knee-jerk reaction – markets sort themselves out - and, indeed, there is some evidence that in this case in that that had happened even without legally required contract reversion, as contracts to musicians have become more flexible and shorter over the years and with changing conditions.[8] Keeping the costs of investigation down is a necessary consideration for regulators and both monopoly investigation and changing the law require costly time and expertise of civil servants as well as of those in the industry. The threat of intervention is sometimes held to provide the incentive for the industry to make its own reforms. In the event, the government decided there was insufficient evidence for statutory intervention and requested the Intellectual Property Office (IPO, the UK's national copyright office) to draw up a voluntary code

[8]https://www.gov.uk/government/publications/music-creators-earnings-in-the-digital-era

of transparency for the music industry, to which all participants agree to adhere (IPO, 2024).[9]

The economics of regulation also offers some guidance: public choice theory applies economic methods to political decision-making. While welfare economics conceives of society as the sum of individual members, each of whom make decisions in their own interests, public choice is about decisions that are made collectively through the ballot box or by government officials and administrators. It argues that political parties and government officers are also self-interested and make decisions based on their interests. Whereas welfare economics is concerned with market failure, public choice theory deals with government failure.

In order to regulate industry, say to control monopoly, civil servants have to understand how an industry functions in detail and for that they have to go to the industry to find out how it works; they can therefore be misinformed or swayed by those in the industry seeking to maintain the monopoly (regulatory capture). Incumbents would likely have more finance available than a new start-up trying to enter the industry to sway the enquiry in their favour. Public choice theory identifies rent-seeking as the investment by interested parties in promoting their interests. To counter that behaviour, government officials would have to incur increased administrative costs in holding an enquiry that offers an impartial view. These points throw light on the complexity of regulation whether through law-making and administration or other forms of intervention by government to improve welfare.

4.2. **Legal versus market solutions.** With these considerations in mind, what can be said about how governments should seek to improve social welfare, in this case, of musicians: can we say that passing laws is somehow preferable to using economic incentives to solve a problem? The UK case demonstrates that both options were being considered simultaneously. Taking the question of contract reversion as an example, is it possible to

[9]For a commentary, see https://www.create.ac.uk/blog/2024/02/20/reversion-and-contract-adjustment-rights-lack-of-evidence-drives-voluntary-measures/.

judge between those two courses of action? Perhaps not but what can be done is to lay out the pros and cons of each approach.[10]

One question might be what the relative administrative costs are. Clearly the CMA report cited above regarded them as lower for legislation than for a full-scale competition enquiry. Whatever they are, though, the question might also arise as to whether the expected increase in copyright holders' earnings would merit the cost of the intervention. That is a matter of the distribution of costs and benefits – or to be more precise, of their relative redistribution. Legal intervention is often perceived as a question of fairness (equity), as if no cost would be too great to achieve it. Unless the parties involved are prepared to underwrite the costs of the intervention, they fall on taxpayers. It could, of course, be argued that fairness is an important societal value and addressing instances of lack of fairness wherever they occur benefits us all but there are probably greater instances of lack of fairness that might override the remuneration of performers. It is certainly the case that the cost of maintaining observance of law in general is in everyone's interests, however.

There is, moreover, the problem mentioned above of what is intended by the concept of fair remuneration in copyright law: it seems to mean more or less 'that which the market will bear'. If that market - say, for music streaming - is competitive, royalty payments would be 'fair', whilst if there is unfair competition on either side (such as a monopoly or tight oligopoly of platforms or of record labels, or dominant trade unions or CMOs), royalty rates would not be fair. If the market were left to itself, would fair deals prevail eventually, as some empirical studies have suggested? The market for music, streamed or not, is not 'free': the very presence of copyright law tells us that, so the question of contract adjustment is about more intervention versus the status quo. Equally, it is not 'fair', since platformisation has reduced copyright earnings.

[10]For a detailed discussion and empirical evaluation of the Canadian proposal on reversion, see Heald (2021).

5. Summary and final thoughts

Copyright is a means of overcoming market failure, enabling authors and performers to control use of their work and thereby earn from it. How they do so and how much they earn depends on contractual arrangements (both individual and collective) and market forces. Empirical evidence on royalties and other source of income from copyright in the creative industries shows that the adoption of digitisation and platforms as means of distribution of copyright works have led to lower overall earnings and increased skewness in their distribution.

It is argued that the growth of platforms with their huge scale and scope and network effects has led to even weaker relative bargaining position for creators. Platform economics as a branch of industrial economics provides an explanation for this growth, for which it would seem there are no 'physical barriers' as in previous industrial economics, implying ever greater expansion. What were external effects in the pre-digital era are now internalised by private enterprise in the world of digital production and lead to ever-increasing size, requiring ever stronger regulatory intervention. Consumers' attention and ability to absorb information and devote time to the acquisition of goods and services is one of the few limiting factors in this story.

Music streaming platforms have been widely studied in this context and governments called upon the correct the disadvantage in which songwriters and recording artists (performers) find themselves. As we know from public choice theory, investigating private firms and industries is not straightforward, the more so as superstar performers have a strong presence on social media and influence public opinion. Regulatory bodies are dependent on cooperation with industry organisations, which have conflicting interests. Moreover, any form of regulation, whether changing the law of investigating monopoly, is costly.

This article gives as an example the response of the UK government to the impact of platforms in the music industry. There has been a two-pronged response: evaluation of copyright law and investigation of the market for streamed music. Several stages of the enquiry by the CMA on the state of competition in music streaming have concluded that

there is sufficient competition to enable consumers and copyright holders to exercise choice of music streaming service. One of the UK government's overall policy considerations is the promotion of innovation as a source of growth in the economy and there has been a reluctance to inhibit that by strengthening copyright law to better reward songwriters and performers. It is also the case that changing the law to correct market failure in one creative industry might have knock-on effects for others, which have different economic organisation. Hence, the decision to promote the industry code of conduct and leave the market to work it out.

These points suggest that economics of copyright should pay more attention to the practicalities of how regulation takes place and the evidence that is needed for it. Throughout this article I have referred to copyright as a single entity, whereas as we all know, it consists of a wide array of rights relating to different activities in the chain of production: they are many in the case of a sound recording, which is then streamed. No reference has been made here to the other outlets for revenue, such as live performance. The music industry itself is a nexus of contracts, not only for the use of copyrights but also those related to labour law and the like. Economists working on copyright and creative industries need to take all these features into consideration when offering advice to governmental bodies and I suggest that the same applies to law-makers considering changing copyright law. Industrial organisation and copyright law are intertwined in the creative industries. We now face another development – artificial intelligence (AI) which is going to challenge our understanding of the economics of copyright and innovation in the creative industries even further, as well as how it could be regulated.

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Professor of Economics of Creative Industries, Centre for Intellectual Property Policy and Management (CIPPM), Bournemouth University, UK.