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Challenges, Opportunities and Relevance in Using the Copyright System to Create Economic and Cultural Value

Right Holders' Perspective

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Challenges in Using the Copyright System to Create Economic & Cultural Value In Digital Environment

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A small graphic consisting of three colored squares (blue, purple, green) with the number '2' in white to the right.

Challenges Posed By

- **Rapid technological developments that enable perfect copies to be made, shared by millions across national boundaries with greatest of ease**
- **Convergence of technologies & the content, media & telecommunications providers**
- **Phenomenal growth in number of Internet users, service & content providers**

Global Digital Environment

- **Number of Internet users reached 1.6 billion as at 31 March 2009**
 - Asia Pacific accounts for 41%
 - Europe at 28%
 - North America at 18.4%
- **China has world's largest Internet population with 298 million; more than 2.1 million websites & over 100 million blogs**
- **China also has world's biggest population of mobile phone users - 720 million; & 1 company, China Mobile has 500 million of these mobile phone subscribers**

Challenges

- **99% of digital music in *China* are pirated**
- **In a Nielsen survey released on 7 January 2009, 84% of China's netizens download movies & 85% download music**
- **Singaporeans were 2nd with 21% downloading TV shows & 18% downloading video games every month**

Challenges - Consumer Behaviour

- **Survey of over 3,300 US households at start of 2009 indicate that 70% of youngsters (ages 9-14) are downloading music every month**
 - 49% use iTunes, a legal site
 - 26% use Limewire file-sharing service to illegally share music for free
 - 16% use MySpace
- **Despite substantial improvement, still a high % of illegal downloads**

Challenges

• Declines in Traditional Markets

- Sales of newspapers have declined sharply – in US, 44 million copies sold daily now, lowest since 1940s
- Reason – collapse in advertising, driving down sales and jacking up prices
 - Reason – The Internet, where newspapers are generally free, has siphoned off circulation and advertising. In 2009, US newspaper sites have more than 72 million unique visitors a month, up from 60 million in 2007
- In Asia, revenues from sales of physical copies of sound recordings have fallen from US\$6.2 billion to US\$3.6 billion from 1997 to 2007.

Challenges

- To persuade users to respect the economic rights of creators in the digital environment
- To extract economic value from the digital environment
- Challenge of cross border usages and licensing



Opportunities in Using the Copyright System to Create Economic & Cultural Value

New heading sub-title

Opportunities

- **New means of digital content delivery, New Business Models, New Market Players & New Licensing Markets for Rights Holders**

Opportunities - Some New Business Models

- **A-la-carte download services**
 - iTunes, Amazon, Target – US\$0.99 per track & US\$9.99 per album; now different pricing for different classes of works
- **Subscription Services**
 - Napster, Nokia's Comes With Music
- **Advertisement Supported Services**
 - MySpace, YouTube – for streaming of music for a share of the advertising revenues
- **Direct-to-Consumers**
 - Recording, film companies & some creators themselves are also selling music & movies directly to end-consumers

Opportunities – New Market Players Internet Intermediaries

- **No internationally agreed meaning of term “Internet intermediaries”.** Generally refers to ever-widening category of economic actors occupying a position that is “in the middle” - between the providers of copyright content and users of that content in the digital environment
- **These would include Internet access or service providers, “value-added” intermediaries such as online sellers & distributors of virtual & non-virtual goods, hosts/portal sites, software & games providers, news aggregators, digital operations of traditional media operators, universities, libraries & archives offering digitized content, search engines, chatrooms, mailing list moderators, linking sites & blogs, social networking sites like facebook, youtube, myspace that enable UGC; mobile phone communications providers**

Opportunities New Markets

- **Globally**

- 2007 global digital music sales totaled some US\$3 billion, 40% up on US\$2.1 billion in 2006.
- Music industry is most advanced with 15% of its total market being digital, versus 7% for newspapers, 3% for films & 2% for books

- **In Asia**

- Sale of online digital copies have risen from an insubstantial figure to US\$700 million over same period, representing about 20% of overall revenues of industry

Relevance in Using the Copyright System to Create Economic & Cultural Value

New heading sub-title

Relevance of Copyright System in this Environment

- **Key challenge is the lack of harmonization concerning the legal responsibility of Internet intermediaries to ensure that digital content made available or hosted on their facilities or networks does not infringe copyright**
- **In the past, service providers have been largely able to avoid liability for copyright infringement, because they act as mere conduits providing access to the information and services. However, as content is increasingly originating from the service providers themselves, or they are actively hosting or linking to third-party content, the issues of liability or responsibility for content made accessible to the public & transmitted or stored on these sites become harder to determine**
- **The new business models that are emerging in the digital marketplace need legal certainty if they are to succeed in their activities.**
- **Copyright System is very relevant as the legal framework to address inter alia the issue of potential responsibility for online distribution of copyright content**

Relevance Consumer Behaviour

- **Recent research by UK law firm Wigin of over 1500 consumers showed that warning letters sent to people illegally downloading music would probably be ignored - only 33% of respondents said they would stop the illegal download of content following a letter from their ISP**
- **80% of respondents said they would stop if an ISP followed up the letter with action such as disconnecting them from the Internet**

Relevance Legislating for ISP Responsibility

- **The so-called graduated response model basically consists of three steps: initial email warning; second email warning, followed by suspension or termination of Internet subscription, fines or legal proceedings**
- **Korea & Taiwan have adopted this '3-strikes' law**
- **French Hadopi law**

ISP Responsibility

- **Similar initiatives have been implemented or are being considered in Ireland, Italy, Switzerland the USA and Canada**
- **Some countries, such as Germany and Sweden, have refused such a system**



Concluding Remarks

Role of Government, Piracy & ISP Responsibility

Concluding Remarks

Need for International Coordination

- **Given the nature of the beast, any copyright protection solution has to be international in characteristics and application**
- **Need for world wide implementation due to borderless nature of the digital environment**
 - Accession to WCT & WPPT (the Internet Treaties)

Concluding Remarks Rights Holders' Perspectives

- **Creators & Rights Holders welcome developments in the digital environment**
- **Digital marketplace create new business opportunities & new revenue streams**

- In 2007, US\$120 million in interactive transmission + online karaoke royalties collected by JASRAC in Japan

- US\$16.6 million in Internet & Online Incomes - South Korea

Concluding Remarks

Challenge is to use the copyright system to arrive at business models for legitimate businesses with that will provide benefits for :

- consumers**
- intermediaries &**
- creators & rights holders**



The End
Thank You