

Utilitarian View of Copyright

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- utilitarian view:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries

- this does not say “balance the rights of creators with consumers”
- economists are in favor of property, capitalism and profit – I am not an exception
- suppose government granted an exclusive franchise to produce and sell soap, as England did in the 1630s
- the “property” this is a right to is the “right” to “own” buyers of soap
- we usually call this a monopoly

- the failure of Eastern Europe shows the advantage of property and capitalism
- it equally shows the disadvantage of government enforced monopolies
- copyright is a government enforced monopoly
- yet economists generally favor copyright and intellectual property
- why? the market may provide too little incentive to create
- if the moment I release my great new music CD it is copied by every one all over the internet, how am I the poor starving artist to make a living?

Consequences of Intellectual Monopoly

- more revenue for creator
- creations are less useful
- rent-seeking – DMCA, retroactive extension of copyright now life + 70 years, lawsuits
- but maybe OK if it leads to a lot more creation
- Lessig: more costly for others to create
- David Friedman: imagine copyright on every word in the language
- net theoretical effect on creation ambiguous
- what does the evidence show?
- there is NO EVIDENCE that copyright increases creative output

- Scherer: 18th-19th Century Classical Music
 - introduction of copyright didn't have much effect on earnings of composers
 - the one clear case is Verdi who produced less on account of getting copyright
- Plant: 19th Century earning by English authors who were not allowed copyright in the U.S.
 - English authors were paid by American publishers even though the publishers didn't have to – in some cases more than they earned in royalties on English sales
- 9-11 Commission report not copyrighted because government document; sold about 1/4 as many copies as the latest Harry Potter
 - freely available on internet
 - authorized edition by Norton, St. Martins version two weeks later
 - Norton admits making \$600,000 profit from going first

- is music threatened by digital downloads?
 - what has computer technology brought?
 - at most 10-15% decline in sales
 - costs have gone down by a factor of 1,000
- software produced without copyright
 - open source not Al Gore or Microsoft invented the internet
 - you use open source every day – Google runs on open source
 - how much is Linus Torvalds worth?