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ENQUIRIES INTO INTELLECTUAL PROPERTY'S ECONOMIC IMPACT

CHAPTER 5. COPYRIGHT IN THE DIGITAL ERA: COUNTRY STUDIES

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CHAPTER 5. COPYRIGHT IN THE DIGITAL ERA: COUNTRY STUDIES

This chapter illustrates how copyright-intensive industries are performing and evolving in light of the changes brought about by the growth of the Internet, digitisation, and an increasingly globalised market for digital content. The salient economic properties of digital content are explained and the main copyright-intensive industries are identified. A set of country studies then presents objective information on the economic significance of copyright in a sample of 12 economies over time[1]. In addition to characterising how copyright-intensive industries have fared, the country studies summarise the principal characteristics of each economy's copyright laws, as well as how and why they have evolved (if at all) in recent years. Finally, the country studies provide a summary of the mainstream policy dialogues currently taking place in each economy.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities or third party. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

It should be noted that statistical data on Israeli patents and trademarks are supplied by the patent and trademark offices of the relevant countries.

EXECUTIVE SUMMARY

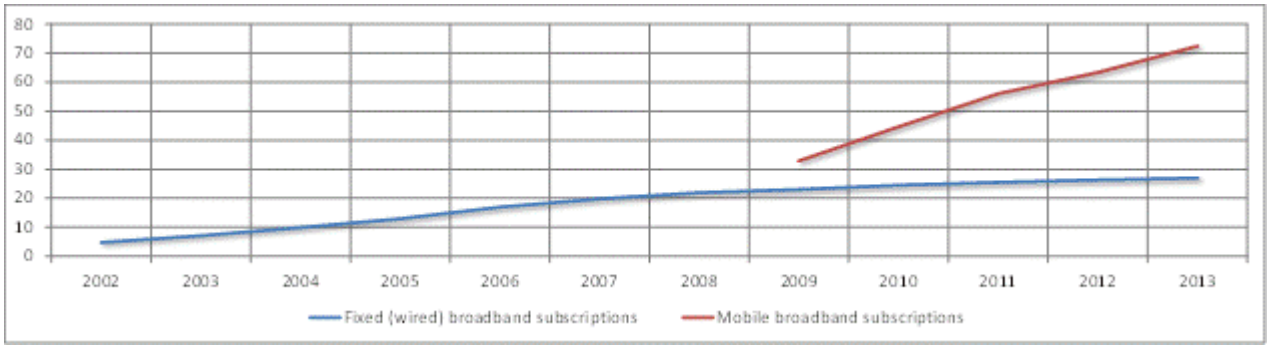
The technological revolution and the economic performance of copyright-intensive industries

The Internet and its ecosystem form an ever-evolving landscape, in which content producers and content users constantly face dynamic technological innovation and rapid commercial development. Long-predicted trends such as the convergence of previously distinct communication services are now occurring at a fast pace across all sectors of industry and having profound and widespread impacts on economies and societies.

The Internet is still growing strongly, particularly in the mobile segment. The average subscription rate of mobile broadband Internet access in OECD countries as a whole rose to 72% in December 2013, up from just 32% in December 2009 (Figure 5.1). In the fixed broadband category, growth of the Internet is slower, as might be expected given the widespread adoption of this technology. At the end of 2013, the average penetration rate of fixed broadband access in OECD countries was 27 per 100 inhabitants, versus 23 at the end of 2009, and versus 4.8 in 2002 (Figure 5.1.).

Figure 5.1. The recent development of broadband Internet

(OECD average, per 100 inhabitants)



Source: OECD Broadband Portal

The observed trends in the broadband penetration rates, especially fixed broadband, are a strong indication of the Internet's maturity in the OECD countries. Consequently, this general-purpose technology has impacted many industries, including the copyright-intensive ones.

It should be kept in mind that due to different statistical taxonomies from one country to the next, no macroeconomic picture of the copyright-intensive sector can be drawn that is strictly comparable across economies. Even though some correspondence tables can be found for the different taxonomies used in the economies analysed in this chapter, in many instances there are no straightforward equivalences between various industry classifications systems.

Nevertheless, some general indications can be presented based on the observed signals. These are *i*) the value added generated by the copyright-intensive industries and *ii*) the number of people they employ. However, caution should be used when comparing these results across economies, since they cannot be perceived as direct equivalents.

Concerning value added, over the past ten years the copyright-intensive industries have demonstrated overall good performance. In most of the analysed economies these industries reported positive growth of

their value added. At the same time, due to higher growth in other sectors, the share of the copyright-based industries in total GDP remained rather stable ranging from a 1.5 percentage point (pp) decline to a 0.9 pp increase.

In most of the analysed countries, copyright intensive industries accounted for up to 5% of GDP at the end of the analysed period. (See Table 5.1.)

Table 5.1. Value added generated by copyright-intensive industries.

Economy	Analysed period	Development in absolute terms (change in value added)	Development in relative terms (change in GDP share)	Share in GDP (at the end of the analysed period)
Australia	2002-2012	9% growth (CAGR 0.8%)	1.5 percentage point (pp) reduction	5%
Canada	2003-2012	16.4% growth (CAGR 1.7%)	Remained stable	3.18%
Chile*	2009	*n.a.*	*n.a.*	1.58 %
Egypt*	2000	*n.a.*	*n.a.*	up to 0.5%
European Union	2010	*n.a.*	*n.a.*	4,2%
Italy	2008-2011	Growth	Remained stable	3,65%
Japan	1998, 2007	57% growth	0.9 pp increase	3,4%
Korea	2009-2011	36 % growth	0.8 pp increase	4,37%
Poland	2008-2011	Growth	Remained stable	4,17%
Switzerland*	1997-2011	Small growth (CAGR 0.3%)	Small reduction	0,3%
United Kingdom	2008-2012	15.6% growth	Increase	5,2%
United States**	2000 - 2012	70% (80%) growth (CAGR 4.52% (5%))	0.6 pp (0.4 pp) increase	4,7%

*) For Chile, Egypt and Switzerland: The available data are not compatible with WIPO (2003)

**) For the United States: Two alternative methodologies are applied to determine the copyright-intensive industries: ESA-USPTO (2010) and Siwek and IIPA (2004) (the figure representing the share in the economy using the latter methodology is in parentheses).

The available data on people employed by the copyright-intensive industries also point at their relative stability. In the most recent year for which data are available (depending on the economy), this sector accounted for 2.3% to 5.6% of total employment in the analysed economies. This share has been remained mostly stable through the analysed periods (Table 5.2.).

Table 5.2. Employment in copyright-intensive industries

Economy	Analysed period	Development in absolute terms (change in number of employees)	Development in relative terms (change in share of total employment)	Share in total employment (at the end of the analysed period)
Australia	2002-2012	Slight growth by 1.6%	Slight reduction by 1 percentage point (pp)	5.5% (2011)
Canada	2003-2012	11.3% growth (CAGR 1.3%)	Remained constant	2.9% (2012)
Chile*	2009	*n.a.*	*n.a.*	2.3 %
Egypt*	2000	*n.a.*	*n.a.*	*n.a.*
European Union	2010	*n.a.*	*n.a.*	3.2%
Italy	2008-2011	Slight reduction	Relatively stable	2.3%
Japan	1998, 2007	8.8% growth	0.4 pp increase	3%
Korea	2009-2011	13% growth	0.3 pp increase	3.1%
Poland	2008-2011	Slight reduction	Remained stable	2.3%
Switzerland*	*n.a.*	*n.a.*	*n.a.*	*n.a.*
United Kingdom	2011-2012	Growth	0.5 pp increase	5,6%
United States**	2000 - 2011	Relatively stable	Relatively stable	3,0% (3.2%)

*) For Chile, Egypt and Switzerland: The available data are not compatible with WIPO (2003)

**) For the United States: Two alternative methodologies are applied to determine the copyright-intensive industries: ESA-USPTO (2010) and Siwek and IIPA (2004) (the figure representing the share in the economy using the latter methodology is in parentheses).

The generally non-negative performance of copyright-intensive industries suggests that this sector has, overall, managed to adapt to the continuous developments in technological infrastructure. In fact as technology continues to evolve, improve and expand, a growing number of services within the copyright-intensive sector rely on new, innovative business models that *i*) use the Internet as a new way to deliver content *ii*) take advantage of improved portability of content or *iii*) introduce other new ways of generating revenue.

Most new business models in that sector rely on the Internet as a **new way of content delivery**. The most well-known example is iTunes, the global digital media store operated by Apple that fully relies on the Internet to deliver content. Other examples of such business models (presented in greater detail in the main body of the paper) include Quickflix is Australia (subscriptions to streamed television shows), Stingray Digital Group in Canada (interactive online music broadcasting and distribution), Italian Chili-TV (Internet platform for movie streaming and downloads), NCSOFT Corporation in Korea (publisher of massively multiplayer online games) and Muzo.pl and muzodajnia.pl in Poland (on-line music retailer).

In addition, some new business models take advantage of **improved portability** of content thanks to growing penetration of mobile devices such as smartphones or tablets. This includes such firms like Kobo, a Canadian producer of e-book readers, and some Japanese companies that take advantage of the high

penetration of mobile internet access in that country, such as Namco Bandai Games, which develops video games for mobile phones.

Moreover, some business models rely on **new ways of generating revenue** such as ad-based models and subscription-based models. These include successful subscription-based services such as Netflix and Japanese cell-phone novel providers. Another example is Canada's Têtes à Claques, a French-language comedy website that generates a large share of their revenues through ad campaigns, licensing the characters for labels of commercial products, etc.

To re-iterate, it seems that the copyright-intensive industries in the analysed countries are, have made efforts to adapt to the new challenges and opportunities introduced by the Internet, and that in many cases these efforts turned out to be successful. That is not to say that all individual sectors have fully adjusted, nor is it to say that piracy is not a significant problem, but the copyright-intensive industries as a group appear to be achieving stable results in terms of value added and employment, even though in some cases they grow at smaller rates than the overall economy. It is likely that negative effects on value added and employment from technological advances are being at least partially offset by newer, innovative business models that take advantage of the business opportunities offered by the Internet.

Evolving legal frameworks and the surrounding debates

In each analysed economy policymakers recognize the importance of **copyright-related legislation** as a tool to maximise innovation and creativity. These legal copyright frameworks were established well before the Internet revolution. Today each analysed economy has amended, currently amends or is going to amend its copyright legislative frameworks in order to bring these frameworks up to date with contemporary uses of technology. One of the first amendments was the *Digital Millennium Copyright Act* (DMCA) in the United States, enacted in 1998. In 2001 the European Union adopted the so-called Copyright Directive[2]. In Canada, the *Copyright Modernization Act* was passed in 2012. Numerous European countries have recently called for views for the debate, and several EU member states are conducting debates on that topic.

The most common areas of amendments and current debates that were identified in the analysed country studies are:

- scope of copyrights
- orphan works
- copyright limitations and exceptions
- copyright registration
- enforcement

It should be highlighted that there is a diverse set of views regarding optimal solutions in these areas, and at this stage it is virtually impossible to assess which solutions were optimal and which were not. In addition, this list of issues is not exhaustive, and in some economies there are several other copyright-related legal issues that were debated or are being currently debated in the context of the Internet revolution.

In the context of technological progress it is important to notice the issues related to the **scope of copyright,** particularly with respect to coverage of data and datasets. Indeed, rapid technological progress is likely to permit economic use (and hence monetisation) of data, just as creative content can be monetised today. Whereas all legal systems protect creative databases that constitute a creative compilation under

copyright law, some analysed economies (the European Union, and consequently The United Kingdom, Italy and Poland) have also introduced additional legislation to cover non-creative databases that is intended to strengthen the rights of database creators.

The phenomenon of **orphan works**[3] is also debated in almost all the analysed economies. Although the issue of orphan works is not new, the emergence of the Internet and the resulting drastic reduction of cost of transforming creative content have made this problem particularly striking. There are several ways to address the legal treatment of orphan works. One existing solution is a kind of public license that can be granted by public authorities (e.g. copyright office) after a party demonstrates that it made considerable efforts to identify the rights owner. Such solutions were adopted in Canada, Japan and Korea. The EU countries currently adopt the EU Directive on orphan works that sets rules on certain permitted uses of such works, whereas Switzerland allows the use of such works contained in phonograms or audiovisual fixations with a prior notification of collective societies.

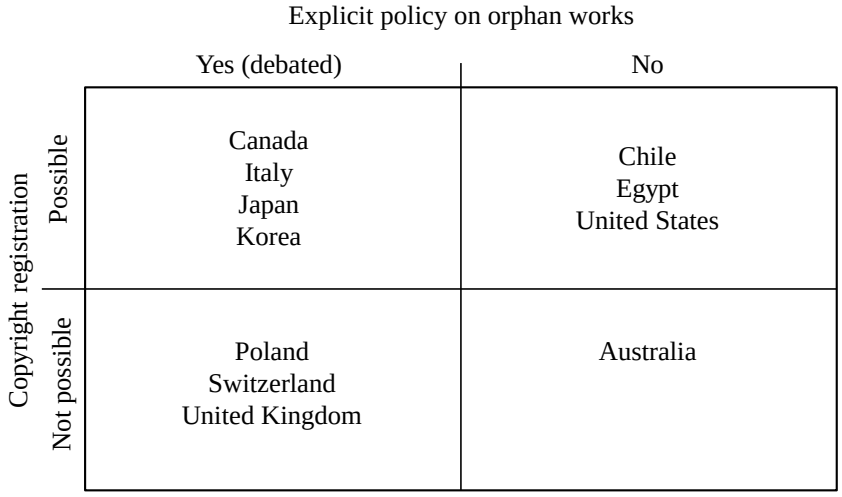
Several countries do not have an explicit policy on orphan works. These countries either: are discussing potential policies in this area (the United States), include orphan works in the public domain (Chile), or advise some pre-cautionary steps to mitigate the risk, such as checking the publication date and the date of author's death (Australia).

Concerning copyright **limitations and exceptions**, digital technology greatly reduces the cost of copying, distributing and transforming content, which has led to the availability of more copyrighted content and much wider usage of it than ever before and the corollary availability of pirated content. Policy makers have taken the view that consumers should have the flexibility to make reasonable uses of legitimately acquired copyrighted content in the digital age. All analysed economies have copyright limitations and exceptions frameworks to allow certain unlicensed uses of copyrighted materials, e.g. for personal use, review, criticism, parody, educational purposes, etc. To ensure that the legitimate interests of rights holders are respected, laws typically include limitations restricting such content from being used for commercial purposes or from interfering in markets for the original work. (Specific cases when copyright exemptions apply are discussed in greater detail in the main body of the paper.)

Two things should be kept in mind in the context of copyright limitations and exceptions. First, in all analysed economies the limitations and exceptions do not waive the author’s moral rights (such as the right of authorship, the right of integrity of work and the right of divulgation). Second, continuous technological progress keeps creating new possibilities for uses of copyrighted material, which in turn trigger discussions about new potential copyright limitations and exceptions.

Coming back to the issue of orphan works, some researchers point at **copyright registration** as a potential (partial) solution to this problem. Indeed, several analysed countries have introduced the option of copyright registration as a voluntary mechanism that will benefit the rights holder in case of potential disputes (Canada, Chile, Egypt, Italy, Japan, Korea, United States). Clearly, the orphan works regime is not tied to copyright registration in any of the analysed countries. However, it is noteworthy that most analysed countries decided to regulate at least one of these two areas: orphan works and copyright registration, which suggests there might be some interactions (for example complementarities) between these two areas (See Figure 5.2.).

Figure 5.2. Policies on orphan works and copyright registration*



* The orphan works regime is not tied to copyright registration in any of the analysed countries.

The advent of the Internet has resulted in growing access to information worldwide. However this also means that more and more consumers have access to pirated creative content. The legal and regulatory frameworks aimed at preventing digital piracy are key jurisdictional factors, as they affect the behaviour of the main market actors, but only to the extent that laws are enforced in practice. If the resources devoted to **enforcement** are inadequate or intellectual property rights are not otherwise enforced by public authorities, then the value of the laws and regulations to the rights holders is low (OECD, 2009b).

In the analysed economies, copyright infringement is generally pursued by the copyright owner. However, in some cases (e.g. commercial scale piracy) the infringement may also be subject to *ex officio* criminal proceedings. To address this issue, some countries have devoted special police units to counter online IP crime (United Kingdom, Korea). In addition, some countries have considered new legislation to block websites that host copyright-infringing materials (for example Italy and the United States).

Furthermore, many countries have been introducing liability for circumventing, and facilitating the circumvention of, technological protection measures that restrict access to copyrighted works and/or seek to preclude the infringement of digital copyrighted material (e.g. Canada, the EU, United States). These measures, required by some WIPO treaties[4], are broad in scope, and preclude 'descrambling', decrypting or acts that otherwise avoid, bypass, remove, deactivate or impair a technological measure.

In almost all the analysed economies there have been robust discussions of a broad range of issues related to "copyright in the age of the Internet". These discussions have involved the government, industry, academia, and civil society, and preceded amendments of copyright legislation in many areas, some of which are summarised above.

The copyright-intensive industries are an important participant in these debates. In all the analysed economies, these industries are also represented or complemented by a number of usually sector-specific associations (music, film and television, books and periodicals, software, visual arts, etc.). Apart from participation in the debate, these associations carry out several activities, including: *i)* collective rights management, *ii)* awareness raising campaigns in the area of copyright, concerning, e.g. security awareness and attitudes towards digital piracy, *iii)* data collection, and *iv)* promoting best practices.

Likely due to the ever-increasing rise and effect of piracy in the digital age[5], much of the copyright-intensive industries' effort seems to concentrate in the area of online copyright enforcement. In most cases it includes industry best practices to counter digital piracy (e.g. Korea, United Kingdom, United States).

Lastly, the industry is also an important source of information on data, including statistical data and research as well as qualitative information. Data and economic analyses provided by the industry are essential to understand the way the industry operates and to predict its future development.

Introduction and Background

The Internet has become a vital platform for delivering digital content such as movies, music, books, news, and software. Most importantly, the global reach of the Internet enables digital content to be nearly instantaneously delivered to any part of the world. This means that many of the barriers that constrain the exchange of physical content products (*e.g.* costly transportation, import tariffs) are significantly reduced or eliminated in the case of digital content. It also underscores the importance of copyright as an incentive mechanism for the creation and dissemination of digital content.

Digital content is flourishing on the Internet according to a range of indicators. Data also indicate that a significant portion of traffic is infringing, notwithstanding the fact that the vast majority of the most popular works are available legitimately online[6]. While official estimates are not available, Cisco has estimated that all forms of video (i.e. TV, video on demand, Internet, and P2P) will account for approximately 90 percent of total consumer Internet traffic by 2015 (Cisco, 2013). Another example is the recent rapid growth of sites that allow users to upload and share content on the Internet. It is estimated that the photo sharing site Flickr alone reached 1.6 million photos uploaded daily on average on its platform in 2013[7].

Policy makers continue to promote the creation and dissemination of digital content, and effective copyright policy (including its enforcement) is central to their success. The 2008 *OECD Seoul Declaration for the Future of the Internet Economy* (OECD, 2008) and the 2011 *OECD Council Recommendation on Principles for Internet Policy Making* emphasise that "effective protection of intellectual property rights plays a vital role in spurring innovation and furthers the development of the Internet economy" (OECD, 2011). While the global reach of the Internet has made the potential market for digital content very large, there is a debate as to whether existing laws and regulations cope well with rapid technological developments. Yet as the market for digital content has grown, so has the importance of implementing sound copyright policies.

There is a diverse set of views regarding the optimisation of copyright frameworks for the Internet age and different aspects are currently being debated at domestic and international levels. This chapter, prepared under the direction of the OECD Committee on Digital Economy Policy (CDEP), contributes to that debate. It describes copyright systems in a sample of diverse economies by presenting their economic and legal settings, as well as their current mainstream policy dialogues, in a set of objective country studies.

Scope of the chapter

This chapter presents several national experiences of how copyright frameworks have evolved in light of the digitisation of content and the growth of the Internet, providing context with business perspectives as well as information on the economic performance of copyright-intensive industries.

This chapter consists of three sections:

- Section one, *Copyright – An Economic Perspective*, begins with an introduction to copyrights and a summary of their economic rationale, provides an overview of key copyright industries, and briefly sketches the existing methodologies to quantify these industries. The overview uses the methodology developed by WIPO (2003) to classify copyright-intensive industries that was consequently used and elaborated in by ESA-USPTO (2012) and EPO-OHIM (2013).

- Section two, *Copyright and the Internet Revolution*, begins with a brief summary of technological developments over the past 20 years. It then gives a general presentation of new business models enabled by these technological developments and summarises the main legal issues that appear to have become more urgent in the digital era.

- Section three, *Country studies*, presents specific national experiences of how copyright has evolved and provides insights from the perspective of various stakeholders, taking into account national economic landscapes. Context can matter significantly; therefore the sample of economies is as diverse and representative as practicably possible to take into account differences among economies' legal and economic landscapes and other factors. The following economies have been included: Australia, Canada, Chile, Egypt, the European Union, Italy, Japan, Korea, Poland, Switzerland, the United Kingdom and the United States.

Copyright - An Economic Perspective - Definitions and scope

Copyright is a form of intellectual property rights (IPR) that grants the creator of an original work (creative work) certain rights over that work for a limited period of time. The copyright holder has an exclusive right to reproduce his or her work in forms such as printed publications or sound recordings, to distribute copies and translations, to broadcast the work or make it available, to license and/or lend it, to adapt it (*e.g.* to turn a book into a screenplay) or give performances based on the work[8].

Independently from economic rights, authors are granted moral rights, such as the right of authorship, the right of integrity of work, the right to be credited, and the right of divulgation. These rights can be maintained by the author even if the copyright has been transferred to a third party.

Types of works that are protected under most national copyright laws include the following: literary works (such as novels, short stories, poems, and any other fiction and non-fiction writings), dramatic works, musical works, artistic works (whether two-dimensional as drawings, paintings etc. or three-dimensional as sculptures, architectural works), maps and technical drawings (including cartographic works, plans, blueprints, diagrams etc.), photographic works, cinematographic works, and computer programmes and the creative aspects of databases. It should be highlighted that copyright applies to all original works, irrespective of the quality of their content. Copyrights do not cover ideas, procedures, methods of operation (know-how) or mathematical concepts.

Copyright protection is time-bound. Under the international agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) that is administered by the World Trade Organization (WTO), protection should last at least 50 years after the death of the author. There is a trend for countries to adopt longer terms than the minima required by TRIPS and the treaties administered by the World Intellectual Property Rights Organisation (WIPO)[9], *e.g.* a term of the life of the author plus 70 years, or at least 70 years from first publication if the author is not a natural person.

Copyright laws have been partially standardised through a set of international conventions. The Berne Convention was one of the first international agreements on copyright, accepted in 1886. Most of the articles of the Berne Convention were incorporated into the World Trade Organization's TRIPS agreement in 1995.

Today, in all economies where the Berne Convention standards apply, copyright is granted automatically, and does not require any official certification. Once a qualifying work is presented to the public in a physical form or secured on a medium (e.g. optical disc, computer file, painting etc.), the holder is automatically entitled to his or her exclusive copyright. Both the Berne Convention and TRIPS prohibit signatories from maintaining any formalities to the protection of copyright[10].

Economic rationale for copyrights

Before discussing the economic rationale for copyright, it is important to recall two key economic properties of creative works that make them fundamentally different from tangible goods. Specifically, creative works such as movies, books and musical compositions are *non-rival* and *non-excludable*. They are *non-rival*, which means that they can be used by many persons at the same time without the individual value of consumption being reduced. They are also *non-excludable*, which means that without appropriate legal rights it is usually very difficult for the authors to prevent unauthorised uses of the content (Watt, 2004).

These economic characteristics of creative works lead to some special features of markets for creative content. The non-rivalry of creative works, and the very low marginal cost of reproduction of most copyrightable property, especially in the digital era, means that without legal copyright protection the work would likely not exist (since a price close to marginal cost may not generate sufficient revenues to cover the fixed costs of creation). Thus the argument for copyright is that an incentive to create and disseminate must be fostered by giving the creator some control over how the creation can be used by others (Greenhalgh and Rogers, 2010). Authorial control through exclusive rights provides important economic incentives and gives the authors the possibility to make a living from their creative works. This in turn allows culture and creators to mutually flourish.

The economic rationale for copyright is that without this protection, others could free ride on the efforts of creators and hence suppress the supply of creative works. Accordingly, the lack of sufficient, well-established and properly enforced copyrights would discourage future investments in new literary, artistic and creative works. This clear economic rationale for copyright is well reflected in law. It is based on the fact that "an original book, film, music composition or any other literary and artistic work is difficult to create but easy to copy" (Raustiala and Sprigman, 2006).

The economic literature identifies an important trade-off related to copyright law: the balance between two different effects that emerge when the cumulative aspect of creation is taken into account. On the one hand, society needs enough protection so that, at any given moment of time, creative activities are undertaken. On the other hand, excessive protection could create market power and thus higher access prices, which would reduce the extent to which creative works are disseminated.

Putting it differently, if copyright protection is too strong, incentives to create are likely to be high, but access to works may become so expensive that dissemination, in economic terms, is suboptimal. On the other hand, if copyright protection is too weak, it is likely that too few creative works would be produced and/or that they would be of poorer quality. Authors would choose to engage their time and effort in other areas of activity.

As Landes and Posner (1989) summarised: "Copyright protection — the right of the copyright's owner to prevent others from making copies — trades off the costs of limiting access to a work against the benefits of providing incentives to create the work in the first place. Striking the correct balance between access and incentives is the central problem in copyright law."

In this context it should be also highlighted that what is "transacted" in copyrights is the right to access the intellectual property concerned, not the right to own the property itself. In other words, copyright is distinct from the means of delivery. A song is protected by copyright, but a music CD is a means of delivery. If you buy a music CD, you own that CD but you do not own the songs on it. What one gains under a copyright transaction, therefore, is the use of the work for certain purposes or for a particular length of time

Lastly, it has been noted by several researchers that copyright has remained one of the most pressing areas that is lacking profound, empirical, economic studies. While some such studies do exist (e.g. EPO-OHIM, 2013; ESA-USPTO, 2010; Japan Copyright Institute, 2009; Siwek-IIPA, 2004; The UK Department for Culture, Media and Sport, 2014), they focus on the statistical aspects. More detailed quantitative information on copyright is urgently needed to advance economic research in this area, and to provide applicable and workable guidance to policymakers (Watt, 2004; Png, 2006; Handke, 2012).

Copyright-intensive industries

There is a distinguished history in studies that have sought to assess the importance of industries reliant on copyright. The challenge to date has been to agree on which industries or which portion of industries should be considered 'copyright industries'. In practice, this has been a function of the industries that supply work that is copyright protected and the available statistical data.

Creative work that is subject to copyright protection, as defined by TRIPS, is produced in various parts of the economy. To facilitate the quantitative analysis of copyright-related activities in the economy, WIPO (2003) introduced a methodology that distinguishes copyright-intensive industries and divides them into four main groups: *i*) core, *ii)* interdependent, *iii)* partial, and *iv)* non-dedicated support.

The core copyright-intensive industries are industries that are wholly engaged in creating, producing and manufacturing, performing, broadcasting, communicating and exhibiting, or distributing and selling works and other protected subject matter. WIPO identified the following nine groups as core copyright industries:

press and literature

music, theatrical productions, operas

motion picture and video

radio and television

photography

software and databases

visual and graphic arts

advertising services

copyright collective management societies.

In addition to the core copyright industries, WIPO also defines three groups of industries whose activity is related to copyright industries to some degree: interdependent, partial, and non-dedicated support industries.

- **Interdependent copyright industries** are industries that are engaged in production, manufacture and sale of equipment whose function is wholly or primarily to facilitate the creation, production or use of works and other protected subject matter.

- **Partial copyright industries** are industries in which a portion of the activities is related to works and other protected subject matter and may involve creation, production and manufacturing, performance, broadcast, communication and exhibition or distribution and sales.

- **Non-dedicated support industries** are industries in which a portion of the activities is related to facilitating broadcast, communication, distribution or sales of works and other protected subject matter, and whose activities have not been included in the core copyright industries.

Because interdependent, partial, and non-dedicated support industries are only partly engaged in copyright-related activities, only part of their employment and value added should be considered as copyright-intensive. To our knowledge there is no internationally agreed methodology for such exercise. Therefore, this report focuses only on WIPO's "core" copyright industries (Gantchev, 2004).

Two things should be kept in mind when applying the list proposed by WIPO to specific national accounts tables. First, the WIPO definition is relatively old. Given technological progress and the evolution of business models and industry structures since 2003, in some instances this methodology may include industries that are no longer copyright-intensive. Consequently, some applied studies, such as those by the ESA-USPTO (2012) and by EPO-OHIM (2013), use narrower categories of copyright-intensive industries. For example, some activities related to the distribution of creative content, such as "wired telecommunications activities", and "satellite telecommunications activities", are considered by WIPO to be copyright-intensive, but are disregarded in the ESA-USPTO (2012) study.

Second, to be able to determine levels of employment and value added statistics for these industries, it is necessary to identify the list of core copyright-intensive industries within local classification systems. Even though some correspondence tables between different taxonomies can be found, in many instances there are no straightforward equivalences between various industry classifications systems. This could be due either to a lack of exact correspondence between the two classifications or due to different levels in the correspondence table.

To address these issues, the final list of copyright-intensive industries is defined for each country study separately. This is done based on the description of the ISIC codes in the WIPO (2003) study in order to determine which local industry codes provide the closest match. For transparency reasons, industry tables are provided at the end of each country study.

Finally, when looking at the economic impact of industries that produce, supply and distribute copyrighted creative works, two additional things should be kept in mind. First, as noted by Thorpe (2004), economic contribution studies are generous in that they ascribe economic contribution solely to copyright. It should be kept in mind that some of the activity of these industries might not be necessarily related to the copyrighted content. Second, the studies do not capture the broader cultural contributions made by copyright works. There are broader cultural externalities, whose impact is long term.

Copyright and the Internet Revolution - The changing landscape

The recent digital revolution and the emergence of the Internet in particular have had a strong impact on virtually all industries, including copyright-intensive industries (Kretschmer, 2012; OECD, 2013). In the context of copyright-intensive industries two specific areas of impact deserve a closer look: *i)* those elements of the Internet revolution that affect the content itself, such as content digitisation, fast transfer and cheap storage; *ii)* new business models that have been enabled by these technical changes[11].

Technological revolution

Today, advanced economies tend to shift their focus from physical items to intangible assets. Consequently, the importance of digital products grows, as they are providing a new impetus for economies following new technological developments, creative innovations and constant infrastructure improvements (OECD, 2012a). The three main components of this technological revolution are: (i) the digitisation of content, (ii) the rapid growth of high-speed communications infrastructure, and (iii) a dramatic decline in the cost of data storage.

Digitisation of content

Content digitisation is one of the main phenomena that affect the copyright-intensive industries. Today, digital creative content enters and changes many existing creative sectors as new technological advancements emerge. Some copyright-intensive industries use digital content as an alternative to the physical goods they offer (*e.g.* music recordings, films). Others provide completely new products (*e.g.* online computer games, entertainment and business software) that are uniquely digital.

The key property of digital content is its disembodied character. This results in a set of economic characteristics that make digital content particularly different from tangible goods. These differences are outlined in Table 5.3.

Table 5.3. Summary of key differences between tangible goods and digital content

Product feature	Tangible goods	Digital content
Marginal cost of reproduction	Positive	Mostly zero
Hardware dependence	Limited	Hardware dependent
Digital delivery	Impossible	Possible
Market scope	Geographically limited	Global

Marginal cost of reproduction. The main consequence of the non-physical form of digital content is its virtually negligible marginal cost of reproduction. It means that once created, digital content can be reproduced with relatively little cost and effort. Moreover, in most cases a copy of digital content offers the same quality as the original. In the case of a tangible product that contains some creative content (*e.g.* a book or an optical disc) the reproduction involves certain positive marginal costs of supply (*e.g.* materials used for production, costs of packaging, shipping etc.), and apart from its appearance may be quite different in quality from the original.

Hardware dependence. Hardware is a necessary support for all digital content (*e.g.* storage on a hard drive, optical disc, server or other device), and the potential utility that digital content offers to an end user cannot be derived without suitable hardware. Consequently, there are strong linkages and complementarities between hardware and digital products. In fact, trends in consumption of digital content closely follow the newest technological developments (OECD, 2012a).

Digital delivery. The disembodied character of a digital product permits its digital delivery, for example, via the Internet or local area networks. Possible digital delivery implies a significant reduction in the cost of acquisition of a digital product (*e.g.* through reduction or elimination of searching, transportation and storage costs) which in turn significantly facilitates the distribution process. At the same time, digital delivery poses distinct challenges to a sustainable and secure delivery structure (see for example: OECD, 2014).

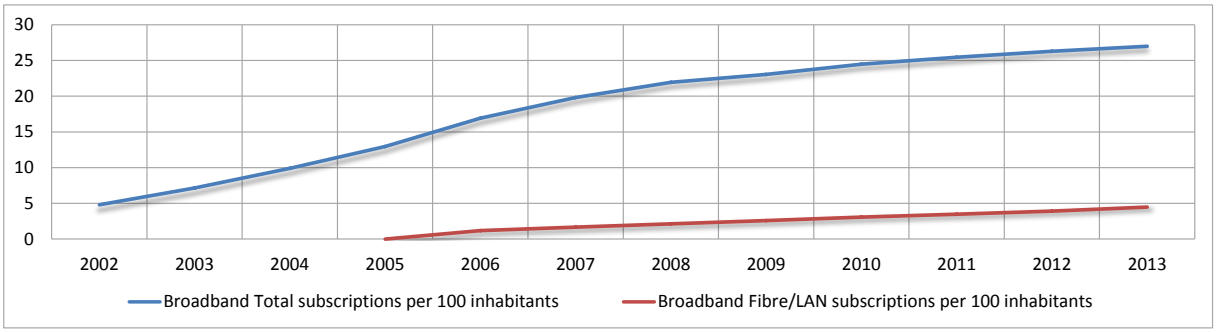
Market scope. The extensive development of global computer networks has enabled digital products to be instantaneously delivered to any part of the world (see *e.g.* BSA, 2007). This implies that the market for digital products has a potentially global scope and many of the barriers that constrain the exchange of physical products (*e.g.* costly transportation, import tariffs etc.) do not limit the exchange of digital products.

High speed communication infrastructures

High speed fixed and mobile networks are the core of the digital economy's infrastructure and enable the transfer and consumption of digitised creative content. Access has improved dramatically over the past decade (Figure 5.2) although important differences still remain between countries with regard to new high-speed network deployment (Figure 5.3.).

Figure 5.3. Fixed broadband subscriptions per 100 inhabitants

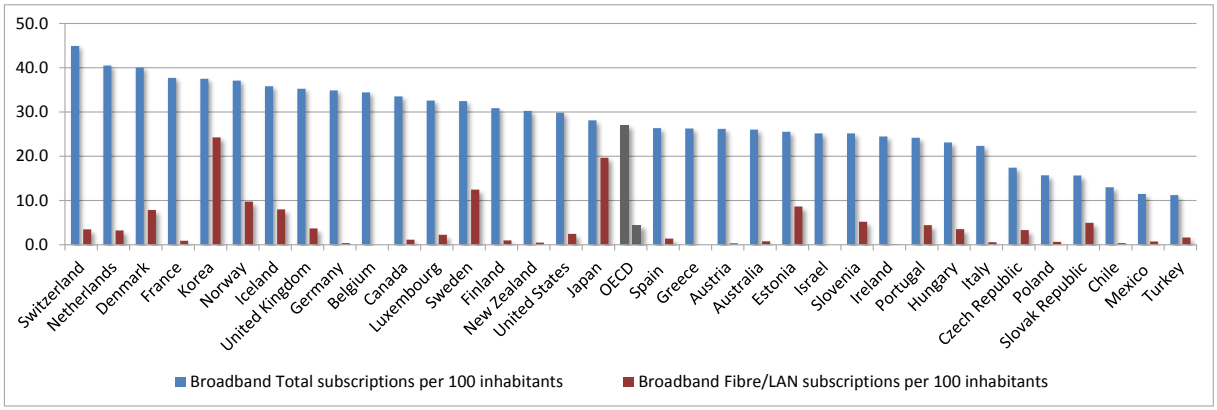
Total and fibre/LAN; 2002-2013; OECD average



Source: OECD Broadband Portal

Figure 5.4. Fixed broadband subscriptions per 100 inhabitants

Total and fibre/LAN, 2013

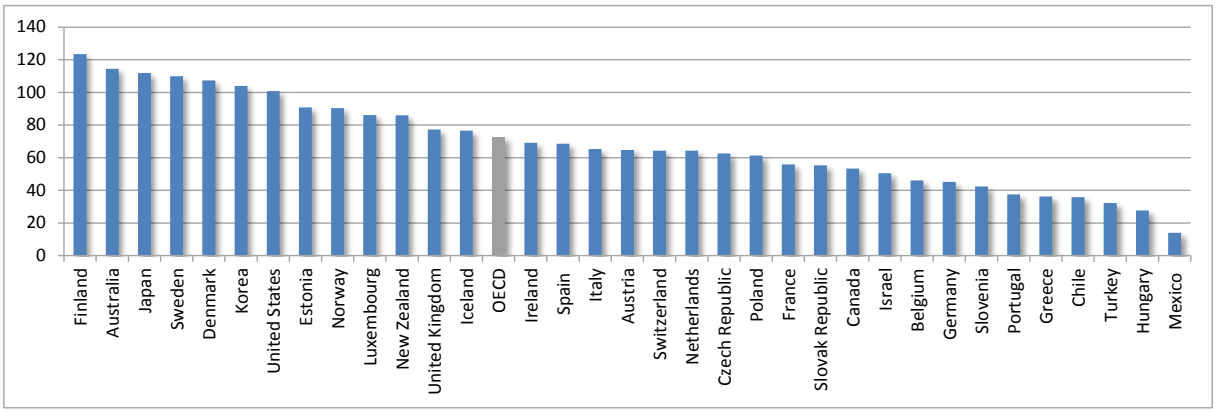


Source: OECD Broadband Portal

More recently there has been substantial growth in mobile broadband access, opening up new communication possibilities to people. Mobile broadband penetration has grown to almost 60% in the OECD area, according to 2013 data, and seven countries (Australia, Finland, Denmark, Japan, Korea, Sweden, the United States) now lie above the 100% penetration threshold meaning that there are some inhabitants of these countries that have more than one mobile broadband subscription for their smartphones, tablets and other devices (Figure 5.5.).

Figure 5.5. Mobile broadband subscriptions per 100 inhabitants

Standard mobile broadband and dedicated mobile data subscriptions, 2013

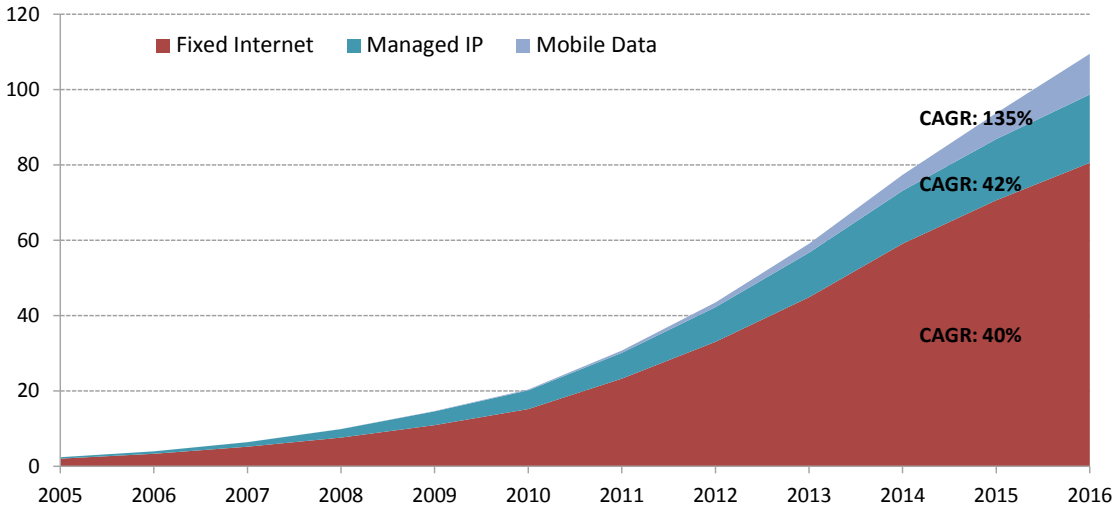


Source: OECD Broadband Portal

In 2013, the rate of mobile broadband subscriptions reached 72 subscriptions per 100 inhabitants in the OECD area. Mobile broadband subscriptions are growing at double-digit rates and it is expected that the number of mobile subscriptions will keep rising in the coming years, stimulated by user adoption of multiple devices (e.g. smartphones and tablets). In terms of data traffic, Cisco (2012) estimates that the amount generated by mobile telephones will reach almost 11 exabytes (billions of gigabytes) by 2016, i.e. almost doubling every year (see Figure 5.6). Given that mobile phone penetration (subscriptions per 100 inhabitants) exceeds 100% in most OECD countries and that wireless broadband penetration is at nearly 60% on average, this source of consumption of creative content data will grow significantly as smart phones (as opposed to ordinary mobile phones) become the prevalent personal device.

Figure 5.6. Monthly global IP traffic, 2005-16

In exabytes (billions of gigabytes)



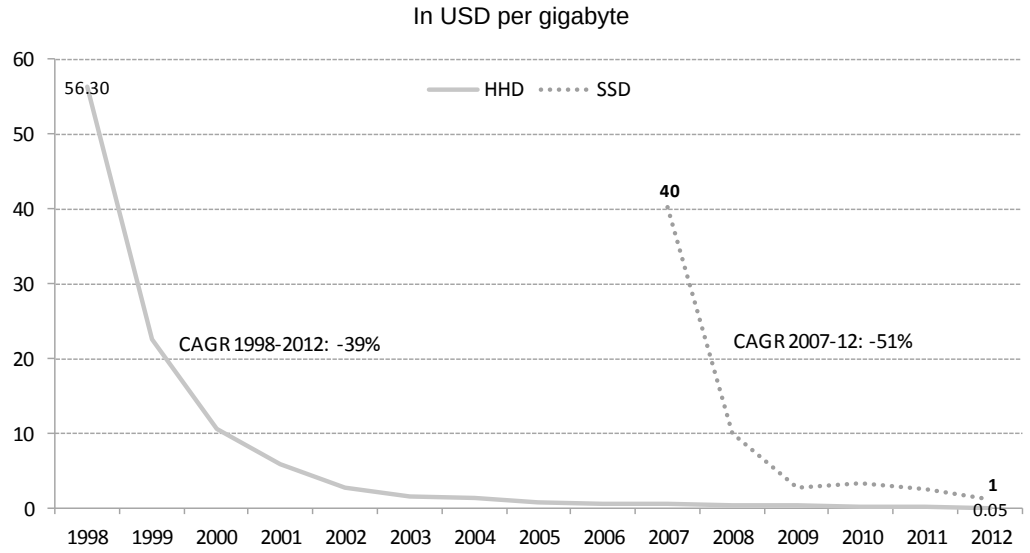
Source: OECD (2013b) based on Cisco (2012). "Managed IP" is mostly Internet traffic within the autonomous networks of large organisations.

Data storage

While the above-mentioned technological developments mainly drive the transport and consumption of content, the actual use of digital creative content has been greatly facilitated by the declining cost of storage of digitised data, including copyrighted digital content. In the past, the cost of storage discouraged keeping content that was no longer, or unlikely to be, needed (OECD, 2011b). But storage costs have decreased to the point at which content can generally be kept for long periods of time, if not indefinitely.

This shrinking cost of storage of digital content is illustrated, for example, by the average cost per gigabyte of consumer hard disk drives (HDDs), which dropped from USD 56 in 1998 to USD 0.05 in 2012, an average decline of almost 40% a year (Figure 5.7). With new generation storage technologies such as solid-state drives (SSDs), the decline in costs per gigabyte is even faster. This means that consumers basically do not need to take the storage issues into account when demanding digital creative content. For suppliers it implies that their offer is no longer limited by storage costs.

Figure 5.7. Average data storage cost for consumers, 1998-2012



Note: Data for 1998-2011 are based on average prices of consumer-oriented drives (171 HDDs and 101 SSDs) from M. Komorowski (www.mkomo.com/cost-per-gigabyte), AnandTech (www.anandtech.com/tag/storage) and Tom's Hardware (www.tomshardware.com/). The price estimate for SSD in 2012 is based on DeCarlo (2011) referring to Gartner.

Source: OECD based on Pingdom (2011).

Booming volume of content

The impact on content diffusion of the technological changes presented above is visible in a number of statistics that illustrate the recent boom in on-line creative content. Examples of on-line images, songs and videos can provide some insights. It is useful to keep in mind the difference between – and corollary desirability of – professional content and amateur content in this context.

With respect to on-line (mostly amateur) images, the photo sharing site Flickr reached 1.6 million photos uploaded daily on average on its platform in 2013[12]. Other networks are also seeing tremendous growth in photographic content. In September 2013, Facebook announced that its users had uploaded a total of 250 billion pictures on the platform so far[13]. Another example is Instagram, which recently announced that its members had published 20 billion photos; on average, 60 million uploads per day[14].

Regarding commercial on-line music, the *iTunes Store*, one of the most popular on-line music stores, available in 119 countries, offers a selection of over 26 million songs[15]. Another on-line service, Spotify, offers commercial music streaming services with over 20 million tracks licenced globally, and adds on average over 20 thousand songs per day[16].

Concerning video, a good example of mostly amateur content is YouTube, one of the most popular video sharing sites on the Internet. In mid-2014 they reported that users watch over 6 billion hours of video each month on their platform. The site also reports that users upload 100 hours of video to YouTube every minute[17]. Film and TV content can be found on multiple download and streaming services. One example is Netflix, whose streaming-on-demand platform is reported to offer over ten thousand movies and TV titles on the US market[18]. In Europe, the MAVISE database organised by the EU's Office for Harmonisation in the Internal Market (OHIM) has identified 3695 on-demand services[19].

These examples highlight only the technology-enabled growth in volume of content, and do not take into account content quality. However, irrespective of the quality aspect, one should admit that such large volumes can be observed only on the Internet and are not attainable in the "off-line world".

New business models

Continuous developments in technological infrastructure, software solutions and hardware significantly improve market access and affect business innovation processes. As technology continues to evolve, improve and expand, more and more services introduce new business models, while other services offer combinations of traditional business models. Key innovations in recent years include the expansion of business models that:

- are based on the Internet as a new way of content delivery;
- take advantage of improved portability of content thanks to growing penetration of mobile devices such as smartphones or tablets, and
- adapted traditional ways of generating revenue from off-line to on-line models, such as ad-based models and subscription-based models.

In addition to the general discussion of new business models presented below, brief case studies of relevant individual business models will be discussed in the country studies section.

New delivery models

Rights holders have recognised that the Internet is a fast and convenient way to deliver content. Download and streaming services provide a variety of options to consumers, offering digital recorded content which can include individual music tracks, albums, TV episodes, special premium content, and videos etc. for purchase or streaming via computer, mobile phone or tablet, through a variety of delivery models. These services are present in virtually all sectors of the copyright-intensive industry, including audio visual works (e.g. TV and film), music, publishing, professional photography and video games.

Recorded music was the first copyright-intensive industry to confront the physical-to-digital transition. Even though the music industry in some countries (e.g. Canada) has been reporting declines of sales since the 2000s, more recently retailers have reported growth in sales volumes and in the geographical scope of their markets[20]. For example, in 2012 there were 2.3 billion single track downloads worldwide, an increase of 8% over 2011, and 210 million digital albums sold, up 16% over 2011 (IFPI, 2013). Another example is the iTunes store that was launched in 2003 in the US and it was followed by

Canada and several EU countries in 2004. Today the iTunes store with music is available in more than 150 countries.

In book publishing, digital technologies have been employed for a long time, but they took off only when end users were offered a satisfying reading experience. This happened in the past five years, after the introduction of sophisticated e-reading devices (See Box 5.1.).

Box 5.1. e-Books

The *e-book* is a book composed in or converted to digital format for display on a computer screen or handheld device.

Figures collected to date by national publishers associations suggest that e-book sales still make up only a small proportion (around 1% for 2010) of book sales in most OECD countries outside the United States. Figures for the United Kingdom suggest a slightly greater percentage of the book market represented by e-books (2-3%). Figures for the United States show e-books representing up to 8% of book sales in 2010. However, more notable than absolute revenue or percentage figures, are the recent dramatic rates of growth in OECD markets for e-books. On 19 May, 2011, Amazon announced that since April its sales of e-books had overtaken sales of all forms of print books combined. Starting in April it has sold 105 e-books for every 100 print books. This does not include downloads of free Kindle e-books, which if counted, push the e-book advantage even higher. Consumers spent an estimated USD 966 million on e-books in 2010. By 2015, the industry is anticipated to nearly triple to almost USD 3 billion.

There are a number of indications that e-books are not replacing demand for print books in the general "trade", or "consumer" category. While there is insufficient data available at this stage to draw any concrete conclusions on trends, some of the recent figures from the industry indicate that e-books are stimulating demand for print books. Contrary to widespread belief, the publishing industry in the United States grew in both 2009 and 2010, aided by USD 1.6 billion in sales from e-books. Total estimated revenue for all US publishers rose 3.1% in 2010, to USD 27.9 billion, following a 2.5% increase in 2009. E-book sales across all publishing categories in the United States rose 29.4% in 2009 and 38.9% in 2010, and accounted for 5.8% of total industry revenue in 2010.

Source: OECD (2012b)

Visual arts are another sector where the technical possibility of digital downloads has profoundly reshaped existing business models and provided corollary opportunities for piracy. Today, online services, mainly websites and other platforms such as newsgroups, are frequently used to disseminate visual arts. In addition, the Internet also enabled the emergence of dedicated on-line databases containing specialised arts images. Sometimes images are disseminated without charge (*e.g.* Google images) or for a given fee through photo stock agencies (*NMR, Roger Viollet, Corbis, Magnum*, etc.) and microstocks (*Getty Images, Fotolia*, etc.) One potential difficulty for visual artists, however, has been the ease with which identifying metadata and other important information can be stripped from works in the online environment. This problem exacerbates the obstacles affecting visual artists' efforts to protect and license their works.

The video game industry is another industry segment where the Internet acts as an efficient means of content delivery. Over the past several years, online games have become one of the fastest growing segments of the video game sector, spurred by rising broadband penetration and the inclusion of robust online capabilities in the current generation of consoles. Legitimate downloads of all types of games are widely provided by game publishers, as well as console and phone manufacturers. Today, the video game industry is characterised by the very large numbers of players who are able to simultaneously engage with each other and to play online. A 2013 study conducted for the industry revealed that 72% of gamers in the United States played some form of online game. This represents an increase in incidence of 5 percentage points among gamers from 2012 (NPD Group, 2013).

Improved portability

Improved portability is another area where technological progress affects business models in the copyright-intensive industries. Portable devices such as laptops, smartphones and tablets give users more opportunities to consume creative content delivered over the Internet (streamed or downloaded). In fact, according to a recent study, an average European has 2.6 screens against 1.4 three years ago (Let's Go Connected, 2013).

Improved portability is recognised by copyright-intensive industries that now offer services that work on all types of mobile devices, such as smartphones or tablets. These services provide streaming, cached content (temporarily downloaded to a device so users can listen even when offline), tracks, albums, videos and ringtones for use on mobile phones. Streaming services allow users to choose and listen to whatever music they like, on the go, while the caching of music means that it is possible to look through all playlists and load up favourites. Downloaded purchased tracks on mobile phones can also be transferred to other devices.

This category also includes mobile applications or 'apps' that work in conjunction with other complementary online services on an Internet-connected PC. Mobile games are a case in point (see Box 5.2.).

Box 5.2. Mobile games

Games is now the largest category of apps on *Apple's iOS App Store*, and game publishers regularly constitute the majority of the top ten app publishers on both the *iOS App Store* and the *Google Play store*, measured by revenue. Of the 20 most downloaded apps on the *iOS* platform (as of 7 June 2013), 12 were games, and of the 20 highest grossing apps, 15 were games. Games now claim 80% of the revenues on *Google Play* and 75% on *iOS*. In the second quarter of 2013, games accounted for roughly 45% of downloads from the *iOS App store*.

The business model for mobile games is moving from the pay to download to the so-called *freemium* mode, where games are downloaded for free, with micro-transactions and advertising providing revenues. It is estimated that in-game purchases will soon outpace download fees.

The mobile game market is expected to continue to grow as the penetration by smartphones and tablets expands. More people are playing games, including casual games, social games, and more-advanced multiplayer games. Simple, arcade-style games that involve puzzles, words, board and card games, game show and trivia continue to dominate the market because they are quick to learn and easy to play. The most popular mobile games are single-player board games, puzzles, and word games.

New sources of revenue

Over the past decade copyright-intensive industries have experimented with different revenue schemes in order to profit from digital consumption. These schemes vary from a total "paywall", where no content can be accessed without payment, to models where the whole content is available for free and the revenue is gathered from other sources, such as advertisements.

An illustrative example of a "paywall" can be found in the music industry, where there are numerous subscription based services. These services offer access to their entire catalogue to customers for a monthly fee. Many subscription services also come bundled with either an Internet or a mobile phone subscription. Other subscription services offer selected bundles of tracks or music albums for smaller subscription fees, or offer subscriptions on a daily or weekly basis, according to consumer preferences.

Subscription services are the fastest growing area in video and in digital music. In 2013 there were about 2500 video-on-demand services ago (Let's Go Connected, 2013). In digital music, there were at least 530 music subscription services in 2013 in the EU only (Enders, 2013). The rapid growth of subscription based services was largely driven by bundling deals with Internet Service Providers (ISPs) and mobile operators, an improved user experience, integration with social networks and a greater variety of price points.

In addition to the subscription-based services, where a payment is necessary to get access to the content, another observable trend is towards introducing a metered model, where copyright-intensive industries charge for access to certain content or services while also allowing casual visitors a certain amount of access. This strategy allows developing long-term paying customers, while also benefiting from the potential advertising revenue generated by visits by more spontaneous users. For example, in the news industry the *Financial Times* website, *FT.com*, only allows access to registered users and subscribers, and registered (but non-paying) users can only read up to ten articles per month. In addition, an online subscription provides many services, such as the ability to comment on articles, to write blog posts, have a personalised home page, and to have access to archives. These services provide readers with additional reasons to pay for subscriptions, while allowing others simply to peruse the news pages freely.

In a different approach, many services offer a free advertising-supported model where consumers sign up to a service and benefit from most of its functions, yet listen to (or watch) a certain number of ads. Most operators of ad-supported streaming models as well as the copyright owners whose works are being consumed hope to convert users to premium versions which offer additional functions and ad-free services.

Focus on legal frameworks

Copyright is a legal concept that is more than three centuries old, has been evolving over that time, and is codified in a set of international treaties[21], although the pace of development of the international regime has recently tended to slow down. The recent technological revolution and its impact on creative content significantly re-shaped the environment addressed by copyrights. Consequently, certain legal aspects might need re-visiting and some countries have amended or attempt to amend them. The analysis of various national experiences (presented in section four) distils five general areas of copyright legislation that have been the subject of discussion in the context of the Internet. They include:

- copyright limitations and exceptions
- scope of copyrights
- orphan works
- copyright enforcement
- copyright registration

There is a diverse set of views regarding the optimisation of these areas and different ways of dealing with these legal aspects are presented in the country studies section. That presentation is neither exhaustive nor is it necessarily universally representative; it presents those legal issues that were identified as relevant in most of the twelve analysed country studies. Clearly, in some economises there might be other copyright-related legal issues that are being currently debated in the context of the Internet revolution.

Limitations and exceptions

The technology-enabled ease of copying and transforming content calls for adequate legal solutions in this area. As noted in the Hargreaves Review, the copyright licensing process in the digital age can be overly expensive, difficult to use and access, insufficiently transparent, etc. (Hargreaves, 2011). According to the report it took nearly five years to the BBC to assemble the rights necessary to launch its popular iPlayer service. Such large cost of time and money that can be often borne by the industry becomes discouraging for individual users. Consequently, the technology enabled ease of copying and transforming content calls for legal frameworks that minimise these monetary and non-monetary transactions costs, especially in the area of small-scale, personal use.

Collective management organisations can be useful in bringing transaction costs down so that right holders can more easily manage their collections of content. Other flexible licensing arrangements such as micro-licensing and sublicensing can also create enhanced efficiency, as can effective databases that provide ownership and other information.

Another example of situations for which policymakers have introduced limitations and exceptions is where public benefits, or what economists call positive externalities, may be associated with copying copyrighted content. For example, specific and limited exemptions for the use of copyrighted material have been implemented for the purpose of research or study, judicial proceedings, parody or satire, and criticism or review.

Scope

Copyright may apply to a wide range of creative, intellectual, or artistic forms, or "works". Specifics vary by jurisdiction, but these can include poems, theses, plays and other literary works, motion pictures, choreography, musical compositions, sound recordings, live performances, paintings, drawings, sculptures, photographs, computer software, radio and television broadcasts, and industrial designs.

In the context of technological progress it is important to notice the issues related to data-protection by copyrights. Economic and social activities have long relied on data. Today, however, the technology has enabled a shift towards a data-driven socioeconomic model, in which data are a core asset that can create a significant competitive advantage and drive innovation, sustainable growth and development (OECD, 2013b). Data can be created by either people or machines (such as sensors gathering climate information, satellite imagery, digital pictures and videos, purchase transaction records, GPS signals, etc.). It is generated in many sectors of the economy, from healthcare to transport and energy, and stored in databases.

In the context of copyrights, it is necessary to distinguish between creative and non-creative databases because a different set of legal rules applies to each of them. Generally, legal systems protect creative databases that constitute a creative compilation under copyright law. Non-creative databases are those that do not include a component that could be considered creative and original, even though their creation required a certain level of effort or investment. However, the level of creativity required for copyright protection that makes the difference between a creative and non-creative database has not been defined internationally.

In addition, some countries grant legal protection for non-creative databases either through including them in their copyright legislation or by *sui generis* right (special right) to protect non-creative databases that do not meet the required level of creativity for copyright protection but which were made with substantial investment.

Orphan works

Orphan works have been referred to as copyrighted works whose rights holder cannot be identified and/or located after a thorough search[22].

The phenomenon of orphan works is not new, but the advent of new technologies has brought this issue to the forefront. Given the global nature of the Internet network and the booming volume of copyrighted content available online, an identification of the legitimate right holder of a particular copyrighted item often becomes impossible. As highlighted in a report prepared for the British Film Institute (BFI), the fact that "it is sometimes impossible to identify or locate the rights holder means that archives, libraries, museums, broadcasters, commercial operators and other media providers cannot ask for permission to make use of the orphan work and therefore digitisation projects and online access are hindered. Orphan works therefore remain unavailable to the general public, entombed in public or private archives, and new business models are hampered from making use of them" (KEA, 2011). An illustrative example is the development of digital libraries, which have a key role in preserving the copyrighted works and that are hampered by inability of identification of some of the copyrighted material (Iglesias, 2009).

Enforcement

The rapid development of the Internet implies that more people than ever before have access to practically any type of news or data. However, this technological progress also facilitates digital piracy, as users employ various web based workarounds and applications to distribute and exchange large amounts of pirated digital products instantaneously around the world. Hence, a significant volume of digital piracy occurs via the Internet, which is the main way to exchange of all types of digital information (OECD, 2009).

Piracy over the Internet is a significant problem that seems to be growing in many countries. According to the recent 301 Report by the US Trade Representative, on-line copyright infringement is a growing concern for virtually all copyright-intensive industries, in all formats including mobile telephones, tablets, flash drives, and other mobile technologies. In addition, some new forms of piracy emerge such as so-called "grey shards" (pirate servers). These servers offer players of cloud-based entertainment software unauthorised access to play copyrighted games. This access is generated through hacked software or circumvention of technological protection measures (USTR, 2014).

The local legal and regulatory frameworks are key factors in preventing digital piracy. Legal systems allow copyright holders to take legal action against infringing parties and to claim compensation for potential losses. A strong legal framework can reduce digital piracy, while a weak one could be viewed as tolerant towards these activities and allows piracy to flourish. This hypothesis seems to be confirmed by several studies by, that found that economies with strong copyright protection regimes tended to report lower rates of piracy (Van Kranenburg and Hogenbirk, 2003; Das, Mukhopadhyay and Bagchi, 2014).

However, legal frameworks are effective only to the extent that the laws are enforced in practice. If the resources devoted to enforcement are inadequate or intellectual property rights are not otherwise enforced by public authorities, then the value of the nominal laws and regulations to the rights holders is low. Even the nominally strictest law could therefore potentially have no impact on the scale of digital piracy.

In addition, the risk of discovery and subsequent legal action must also be considered in relation to the potential consequences that infringers may face, in terms of the amount of any expected monetary penalty or the likelihood and duration of possible jail sentences. For instance, if the expected consequences are small, then even a high risk of discovery may have little practical impact on counterfeiting and piracy

activity (OECD, 2009). In fact, there is a significant difference, for instance, between a minor fine, and a criminal prosecution that eventually could result even in a prison sentence. In fact, according to a study by BSA – Harris (2007) potential legal consequences could discourage some individuals from exchanging pirated digital goods.

As a practical matter, digital piracy generally cannot be detected at national borders. The international flow of pirated digital products is more difficult to track by law enforcement agencies from sellers, via distributors, to producers, than the flow of physical goods. The large numbers of individuals involved present further challenges for effective international cooperation amongst enforcement agencies.

Copyright registration

The purpose of copyright registration is to place on record a verifiable account of the date, owner and content of the work in question, so that in the event of a legal claim, or case of infringement or plagiarism, the copyright owner can produce a copy of the work from an official government source. In this context copyright registration could be also seen as one of the potential solutions to the issue of *orphan works*. According to some researchers the currently observed increase in orphan works can be largely attributed to the fact that that copyright is automatically granted without any registration process (Netanel, 2008).

Registering a copyright should not be confused with granting a copyright. According to the Berne Convention (1886), copyright applies as soon as the work is published; registration does not strengthen or modify the copyright in any way.

COUNTRY STUDIES

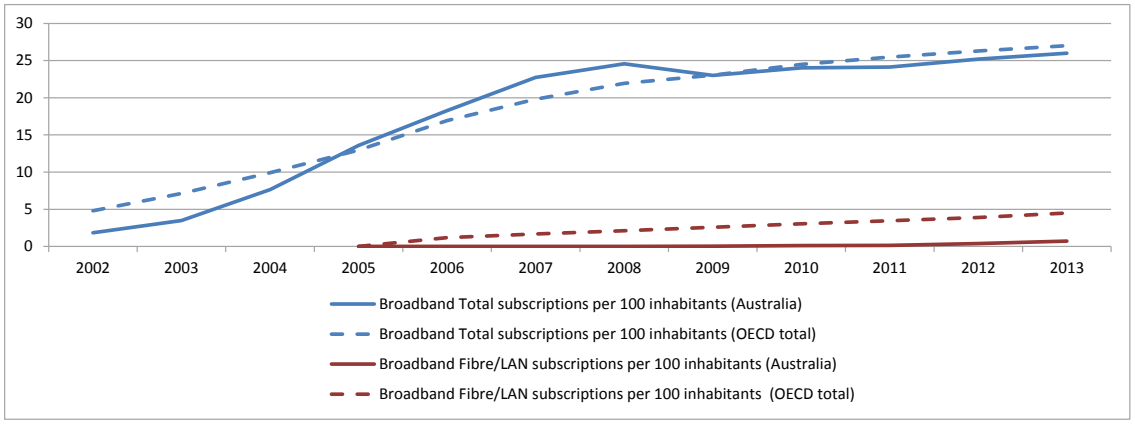
Australia

State of the Internet

In recent years access to broadband networks and the Internet has constantly increased in Australia. In terms of fixed broadband, penetration levels have been growing constantly and are slightly below the OECD average, reaching 26 subscriptions per 100 inhabitants in 2013. In addition, further deployments of fibre networks have taken place. Overall, however, deployment of fibre is still at an early stage in Australia and is below the OECD average (see Figure 5.8.).

Figure 5.8. Broadband penetration rates in Australia

2002-2013, per 100 inhabitants

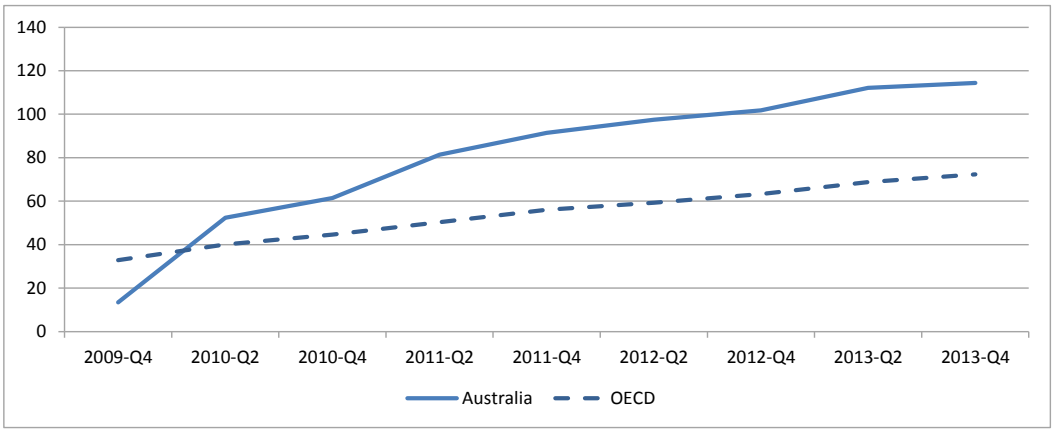


Source: OECD Broadband Portal

More recently there has been rapid and substantial growth in mobile broadband access in Australia, opening up new communication possibilities to people as they are away from a fixed-line connection. Mobile broadband penetration has recently exceeded 100% in Australia, meaning that some customers have more than one mobile internet subscription (Figure 5.9.).

Figure 5.9. Mobile broadband subscriptions in Australia

2009-2013, per 100 inhabitants



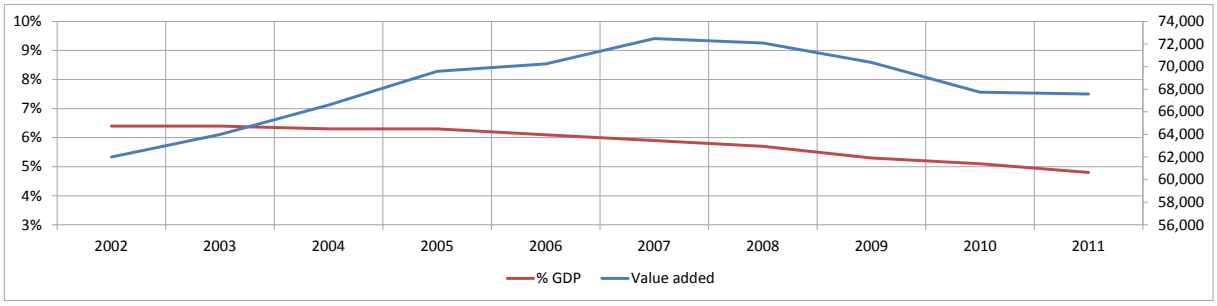
Source: OECD Broadband Portal

Copyright-intensive industries: Market overview

Value added: Over the past ten years copyright-intensive industries in Australia have demonstrated overall satisfactory performance[23]. Between 2002 and 2011 the total volume of the copyright-based industries grew by 9%, at a much slower rate than the overall economy which grew by more than 50% during the same period. In absolute terms Australian copyright-intensive industries reported moderate rates of growth in the period 2001-2007, followed by a slow decline between 2008 and 2010. In 2012 the total contribution calculated for the core copyright-based industries was AUD 67.5 billion, accounting for 5% of Australia's GDP (Figure 5.10).

Figure 5.10. Added value of copyright-Intensive industries in Australia

2002-2012, AUD million (right axis) and % of GDP (left axis)

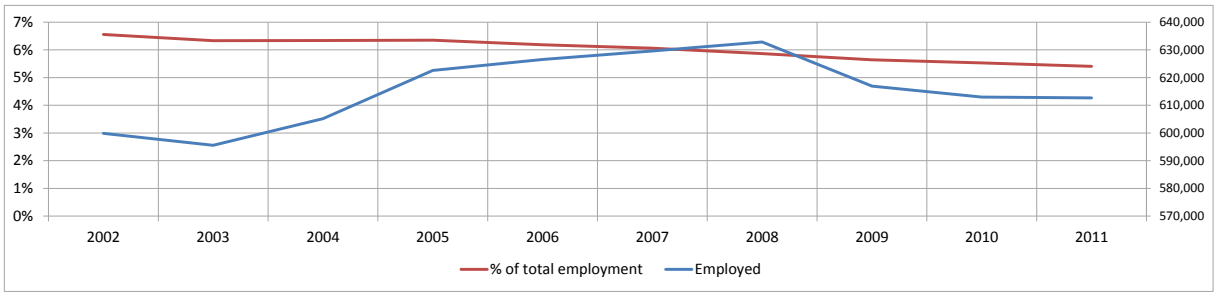


Source: PWC (2012) and Australian Bureau of Statistics, Australian Industry.

Employment: The total number of people employed in copyright-intensive industries represented 5.5% of all employed. Between 2002 and 2011, the overall share of people employed in copyright-intensive industries in total industry employees reported a slight reduction by one percentage point. The total employment reported some fluctuations over that period. In 2011 it amounted to 610,000, which was slightly more than the volume of employment in these industries in 2002 (Figure 5.11).

Figure 5.11. Employment in copyright-intensive industries

% of total employment (right axis) and total volume of employment (left axis)



Source: PWC (2012) and Australian Bureau of Statistics, Australian Industry.

Copyright-intensive industries and the Internet economy: The Internet profoundly re-shapes Australian industry by re-shaping existing business models and introducing brand new ways of business operation. According to existing estimates the broadly interpreted Internet economy contributed directly in 2010 AUD 50 billion to Australian GDP, which is 3.6% of total GDP of Australia (Deloitte 2011).

Australian copyright-intensive industries successfully leverage the technical opportunities offered by the Internet. For example in 2011 *JB HiFi*, the largest Australian music, video and games retailer introduced a web-based, platform agnostic streaming music service *JB Hi-Fi NOW*. Within six months after the launch JAB HiFi NOW has managed to achieve a very competitive position. For example, the daily iOS rankings for free Music apps on the Australian iTunes store shows *JB Hi-Fi NOW* app downloads consistently in the top 10-20 positions. According to Scott Browning, the marketing director at *JB Hi-Fi* the most important factor was "the cost of broadband, and the speed of download, [whereas] copyright laws don't impede *JB Hi-Fi* plans; in fact they help by providing a platform to build from."

In addition, there are several start-ups that took the advantage of the internet as the distribution channel. Examples include *Atlassian* (software) and *Quickflix* (television and film content) (See Box 5.3.).

Box 5.3. Australian creative businesses on the Internet: Atlassian, Quickflix

Atlassian is a worldwide leader in software development. Founded in 2002 it is well known for its tracking applications and team collaboration products. Currently its customers include: Boeing, Ikea, Cisco, Nike and Sony. It should be noted that instead of having traditional sales unit, *Atlassian* fully relies on the Internet as a sole sales platform team, and presents all prices, products information, support requests, as well as training materials and documentation on its web-site.

Quickflix is Australia's leading online movie company. It offers subscriptions to television shows and movies delivered as DVDs by mail or streamed instantly over broadband networks. Customers stream content via the internet, direct to their preferred viewing device, It has amassed a collection of more than 60,000 movie and television series titles and as of June 2013, had over 106,000 customers.

Legal landscape

Current copyright legislation: In Australia the legal issue of copyrights is regulated by the Copyright Act that was first passed in 1968 and amended several times.

Recent evolution: The Copyright Act 1968 framework was designed well before digital technology became a prevalent feature across society. A number of amendments have sought to bring the Act up to date with contemporary uses of technology. Many of these technologies have facilitated access to goods

and services produced by copyright-related industries. Since 1968, there have been over 60 major or minor amendments to the Act. The most recent significant amendment to the Act was made in 2006 (Copyright Amendment Act 2006). Among other things, this amendment strengthened the anti-circumvention laws (against bypassing technical protection measures of content), and re-examined the issue of copyright exceptions, but it did not enable for personal copying of digital content, which was becoming a common practice at the time.

Duration of copyright: In Australia copyright protection generally ends 70 years following the death of the last living author[24].

Institutional setting: There is no copyright office in Australia. The two main institutions in the area of copyrights in Australia are: Attorney-General's Department and the Copyright Tribunal of Australia.

- *The Attorney-General's Department* of the Government of Australia administers the Copyright Act 1968. Within the Department, the Commercial and Administrative Law Branch, is responsible for developing copyright policy. The Attorney-General's Department consults a number of other agencies where necessary, including: the Department of Foreign Affairs and Trade, the Department of Communications, and the Department of Education amongst others.

- *The Copyright Tribunal of Australia* is an independent body administered by the Federal Court of Australia. It has jurisdiction with respect to licensing of copyright works.

Database protection: There is no sui generis database right in Australia. Databases that meet originality criterion are protected by copyrights.

Limitations and exceptions: The main concept of exceptions to copyright infringement in Australia is called "fair dealing". Fair dealing defines the scope of use of a copyrighted work that does not require a right holder's permission. In Australia fair dealing covers: non-commercial research and study purposes, review and criticism, parody and satire, "reporting the news", judicial proceedings or professional advice. In addition special exceptions in some cases are provided for libraries, archives, educational institutions, and persons with a disability.

Orphan works: There are no general exceptions for using orphan works in Australia. Potential users of creative content who cannot identify the copyright owner are advised to use a risk management approach[25].

Copyright registration: No registration is necessary for copyright protection in Australia

Enforcement: In Australia copyright infringement is generally a civil matter, which the copyright owner must pursue in court. Under certain circumstances, the infringement may also constitute a criminal misdemeanour or felony. In addition a notice in writing may be given to the Chief Executive Officer of Customs objecting to the importation of copies of copyright materials suspected to be infringing copies.

Current debate

Summary of current debate: The public debate on "copyrights in the age of the Internet" is relatively advanced in Australia. It has been taking place for several years, and gathered numerous experts from the government, academia, think tanks, industry and civil society.

With respect to public agencies, the Australian Law Reform Commission is a federal agency that reviews Australia's laws. It has recently published its report, "Copyright and the Digital Economy" that recommends the Government to introduce a fair use exception, relax statutory licensing provisions, and

reassess the effectiveness of the retransmission scheme, amongst other things[26]. The Government is currently considering the ALRC's recommendations.

In addition, on 14 February 2014, the Attorney-General, Senator the Hon George Brandis, announced that the Government would be looking to address the issue of online piracy. This is likely to re-open the public debate in Australia on the general issues of secondary liability.

Industry associations and industry best practices: There are numerous industry associations in copyright-intensive industries in Australia. The main ones include: Australian Screen Directors Authorship Collecting Society (ASDAC), Australian Writers Guild Authorship Collecting Society (AWGACS), Copyright Agency Limited, Media, Entertainment & Arts Alliance, Music Rights Australia, Phonographic Performance Company of Australia (PPCA), Screenrights, Viscopy, Copyright Society of Australia, and the Australian Copyright Council.

These associations carry out a number of activities, including: collective rights management (ASDAC, AWGACS, PPCA, and Viscopy), countering copyright infringement (intelligence collection, collaboration with relevant enforcement authorities, training of public authorities), awareness raising campaigns in the area of copyrights, and data collection.

Previous governments have sought to facilitate a self-regulatory code for internet service providers and rights-holders to deal with the issue of online copyright infringement and authorisation. The Australian industry has so far been unable to reach agreement on how such a code would work in practice with the main point of disagreement being who would bear the costs of any potential scheme.

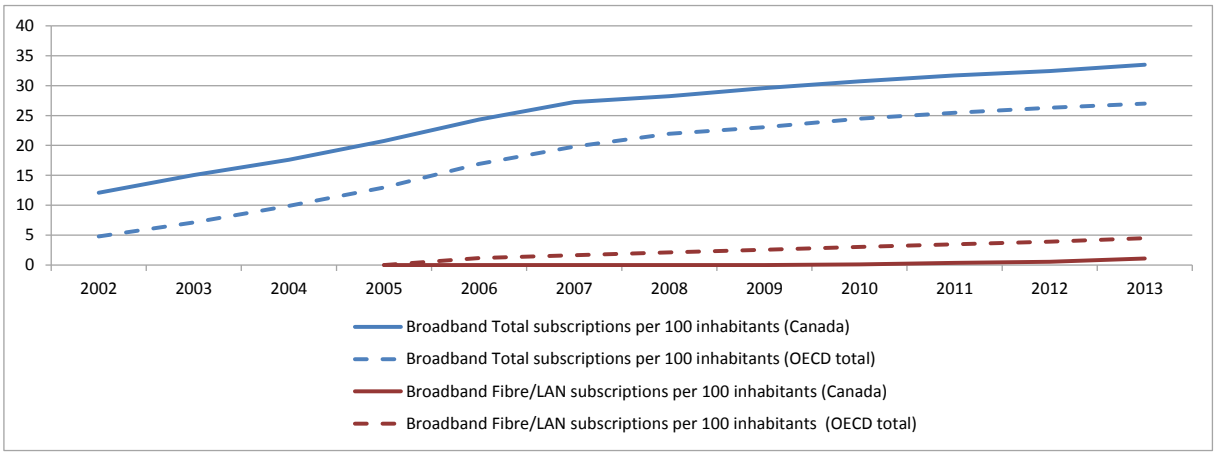
Canada

State of the Internet

In recent years access to broadband networks and the Internet has constantly increased in Canada. In terms of fixed broadband, penetration levels have been growing constantly and are well above the OECD average, reaching maturity. In addition, further deployments of fibre networks have taken place. Adoption of fibre/LAN subscription in Canada is still at an early stage and is below the OECD average (see Figure 5.12). Canadian operators more typically upgraded their networks via hybrid-fibre FTTN and cable DOCSIS 3.0 technologies. Overall coverage of networks at speeds of at least 30 Megabits per second reached 80% of households in 2013[27].

Figure 5.12. Broadband penetration rates in Canada

2002-2013, per 100 inhabitants

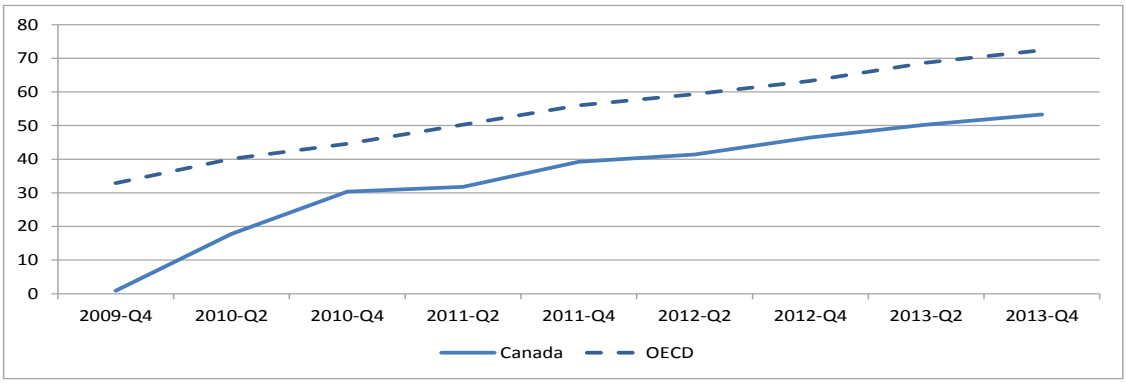


Source: OECD Broadband Portal

More recently there has been rapid and substantial growth in mobile broadband access in Canada, opening up new communication possibilities to people as they are away from a fixed-line connection. Mobile broadband penetration has exceeded 40% in 2012 and has grown to almost 50% in Canada in 2013. However, this is still below the OECD average that reached close to 60% (Figure 5.13) in 2013.

Figure 5.13. Mobile broadband subscriptions in Canada

2009-2013, per 100 inhabitants

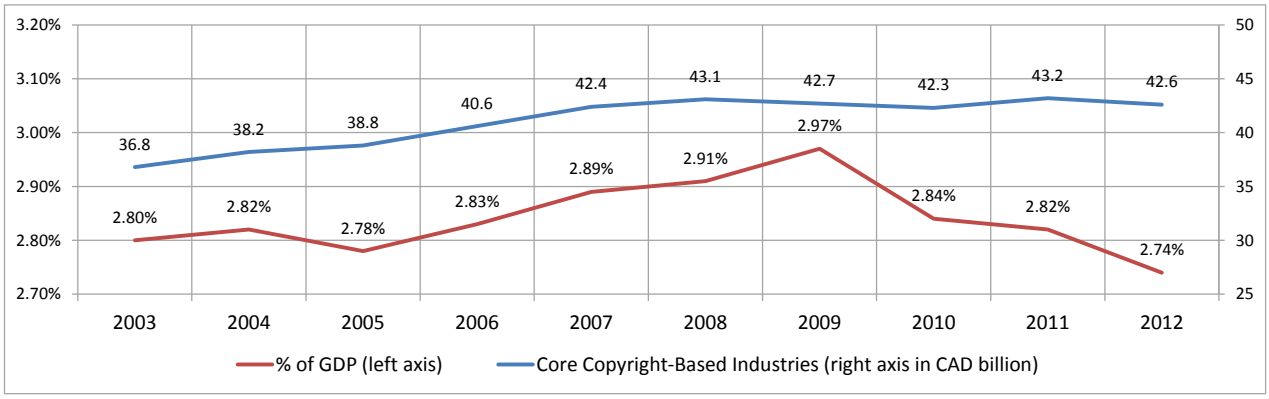


Source: OECD Broadband Portal

Copyright-based industries: Market overview

Value added: Between 2003 and 2012, Canada's core copyright-based industries have demonstrated performance comparable to the overall economy of Canada[28]. The contribution of the copyright-based industries to the Canadian GDP has increased by 15.9%, from CAD 36.8 billion in 2003 to CAD 42.6 billion in 2012. During the same period, Canadian GDP has increased by more than 18.5%. Furthermore, in terms of percentage contribution to the GDP, the share of core copyright-based industries in Canadian GDP has remained relatively constant around 2.84% on average during the period 2003 to 2012 (Figure 5.14).

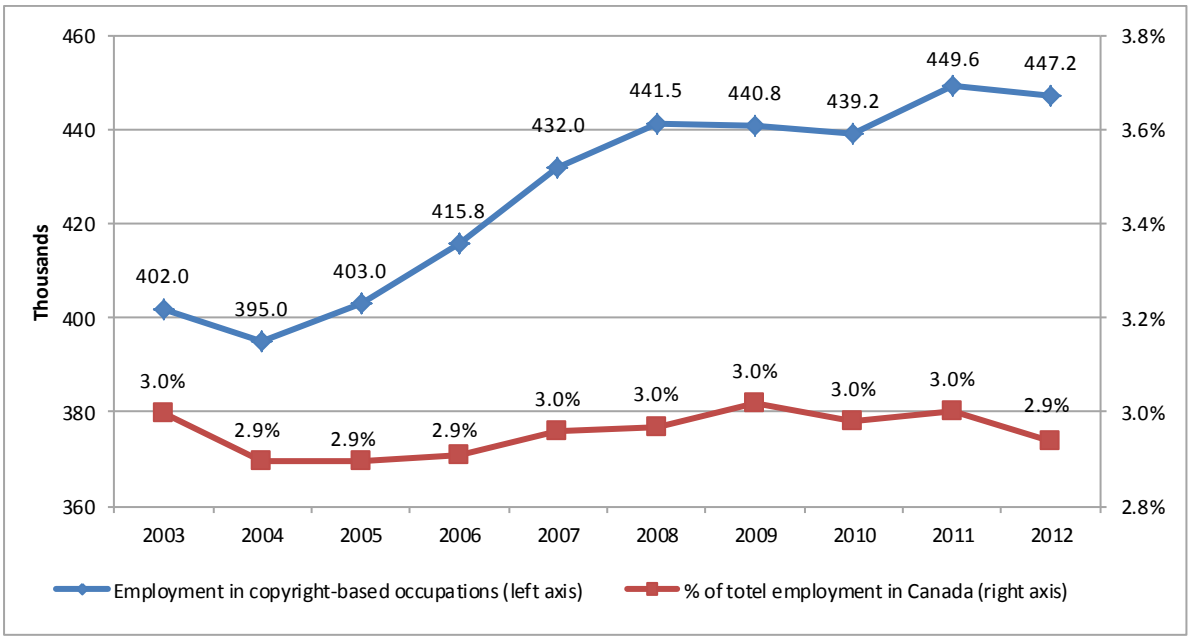
Figure 5.14. Added value of core copyright-based industries in Canada, 2003-2012



Source: Statistics Canada's key socioeconomic database (CANSIM 379-0031); for core copyright-based industries see Table 5.1.

Employment: Based on Statistics Canada Survey of Employment, Payrolls and Hours (SEPH), core-copyright based industries are found to be responsible for 2.9% of total employment in Canada in 2012, estimated at 447,226 jobs. Over the last ten years (2003-2012), the total number of people employed in copyright-based industries has increased by nearly 11.2% in comparison to more than 13.5% for the entire economy. Figure 5.15 below provides detailed description of the evolution of the level of employment in the copyright-based industries.

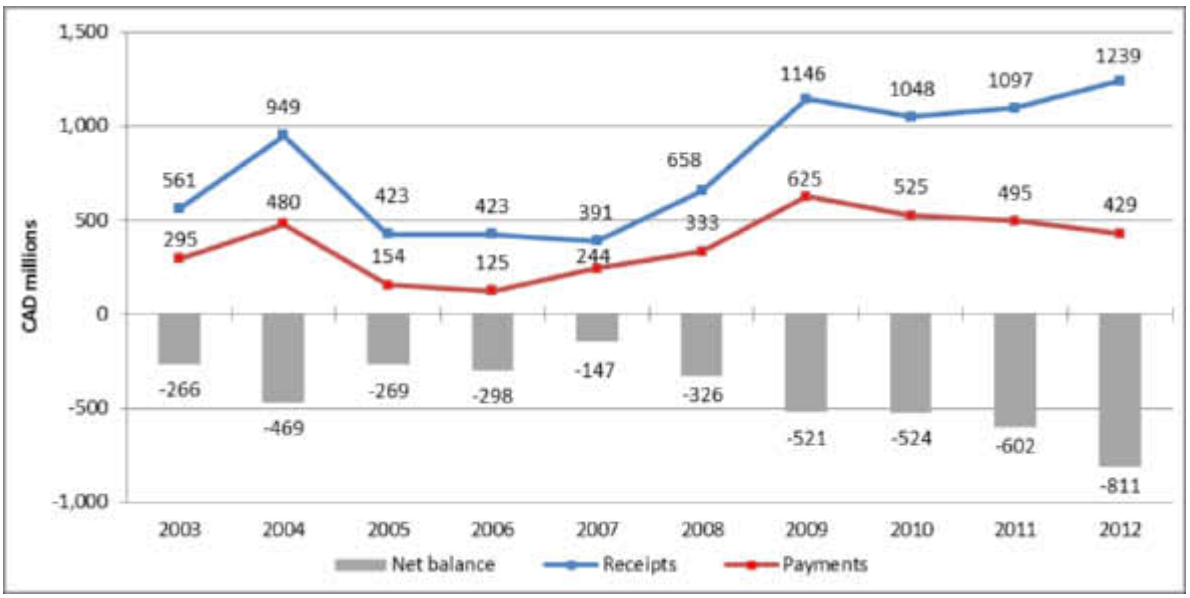
Figure 5.15. Employment in copyright-based industries in Canada, 2003-2012



Source: Statistics Canada's key socioeconomic database (CANSIM 281-0024); for core copyright-based industries see Table 5.1.

International exchange: International payments made and received was in a negative trade balance over the ten-year period observed for copyright and related rights services. Annual receipts increased by more than 45.4% between 2003 and 2012 from CAD 295 million to CAD 429 million. On the other hand, payments also grew by more than 120.9% over that period from CAD 561 million to 1,239 million CAD. (Figure 5.16.).

Figure 5.16. International Payments and Receipts in Copyright-Based Industry Services, Copyright and Related Rights, 2003 to 2012



Source: Statistics Canada's key socioeconomic database (CANSIM 376-0033).

Copyright-intensive industries and the Internet economy: Canadian copyright-intensive industries successfully leverage the technical opportunities offered by the Internet. The percentage of firms selling online is the highest in the information and cultural sector, at (35% in 2012) and in arts, entertainment and recreation industry sector (25.5% in 2012)[29]. At industry-level, there are several copyright-intensive industries that provide data that highlight the importance of the Internet as a medium of distribution of digital content in Canada. For example, for the music industry, the on-line sales revenues of recordings climbed from CAD 79.0 million in 2009 to CAD 92.4 million in 2011. Nevertheless, this did not offset the drop in sales of compact discs over the same period. Compact disc sales fell to CAD 195.1 million in 2011 from CAD 290.3 million in 2009. Total sales of recordings declined by 19.8% from 2009 to 2011, reflecting significant drops in sales by Canadian and non-Canadian artists[30]. For video games, online sales accounted for about a third of all revenue in 2013[31]. For the publishing industry, there is substantial evidence for growing consumer demand for e-books in Canada. According to some recent studies, 20% of book-buyers bought one or more e-books in 2013, up from 18% in 2012[32].

This growth in on-line sales was paralleled by emergence of numerous start-ups that took the advantage of the internet as a distribution channel. Examples include the companies Stingray Digital (music), Kobo (publishing), and the website Têtes à claques (TV) (See Box 5.4.).

Box 5.4. Canadian creative businesses on the Internet: Stingray Digital, Kobo, Frima Studio, Têtes à claques.

Stingray Digital Group is a media and entertainment company that focuses on interactive music broadcasting and distribution. The group has several services in its portfolio, including an interactive Internet service offering karaoke services, provision of subscription music services for businesses, and several digital pay TV and video-on-demand services. Founded in 2007, *Stingray Digital Group* reported a very high growth over the past years, including successful entries on the US and UK markets.

Kobo is the producer of Kobo eReader, the most popular e-book reader in Canada. In addition to hardware production, in July 2012 *Kobo* launched Kobo Writing Life, a platform that allows authors to direct self-publish their work, avoiding intermediaries.

Têtes à claques is a French-language comedy website. It was created in 2006, and today it is one of the most popular francophone websites in Canada. Following the series' success, its author, Michel Beaudet, has established a dedicated website to commercialisation of the characters that appear in *Têtes à claques* in (for example) ad campaigns, labels of commercial products, etc.

Sources: www.stingraydigital.com, www.kobo.com, www.tetesaclaques.tv

Legal landscape

Current copyright legislation: In Canada the legal issue of copyrights is regulated by the *Copyright Act* of Canada that was first passed in 1921 and amended several times.

Recent evolution: In 1997 Canada introduced into its legislation neighbouring rights protections for performers and producers of sound recordings, a statutory damages regime, new copyright exceptions and limitations and implemented the *Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations*.

In 2007, the federal government passed Bill C-59, the Unauthorised Recording of a Movie Act, which amended the Criminal Code to prohibit the recording of a movie in a movie theatre without the theatre owner's consent, with an increased possible sentence if the act was committed for commercial purposes.

The most recent amendment was the *Copyright Modernization Act* in 2012. Among other objectives, it implements the World Intellectual Property Organization's 1996 Internet Treaties. The rationale for these amendments was to provide a copyright framework that is forward-looking and flexible, that will help spur creation and innovation, and that supports new business models in the digital age. It also aimed to provide rights holders with new rights and tools for the digital environment, while giving individuals greater flexibility in using legitimately acquired materials and creating user-generated content.

For example, the new provisions promote creativity, innovation, and legitimate business models, and strengthen the ability of copyright owners to control the uses of their online works in order to prevent widespread illicit use. Such provisions include legal protection for rights management information and a new category of civil liability that targets those who enable online piracy. Copyright owners may choose to apply technological protection measures (TPMs), such as digital locks, to prevent unauthorised access to copyrighted material benefit from new protection against circumvention, or breaking locks. New rules also prevent the manufacture, importation, and sale of devices that can break digital locks. Software producers, video game and movie distributors, for example, rely on digital locks as part of their business model to protect the investment they make in developing products.

Duration of copyright: For works, copyright protection generally ends 50 years following the death of the last living author. For sound recordings, performances, non-dramatic cinematographic works, and anonymous works, copyright protection generally ends 50 years following the year of first publication. For communication signals, copyright protection ends 50 years following the year they were broadcasted.

Institutional setting: The two main institutions in the area of copyrights in Canada include: the Copyright Office and the Copyright Board.

The *Copyright Act* provides that the Copyright Office shall be attached to the Patent Office (which is part of the Canadian Intellectual Property Office). The functions of the Copyright Office are*: i)* to register copyrights and assignments and licences of copyright, and *ii)* to maintain the Register of Copyrights. The Office also provides very general information on the subject of copyright in Canada, but does not provide advisory or mediation services.

The Copyright Board is an independent, quasi-judicial tribunal that acts as an economic regulatory body. Under the *Copyright Act*, the Board is empowered to establish (either mandatorily or at the request of an interested party) the royalties to be paid for the use of copyrighted works when the administration of such copyright is entrusted to a collective-administration society. The Board also has the right to supervise agreements between users and licensing bodies, and issues licences when the copyright owner cannot be located.

Database protection: There is no *sui generis* protection of databases in Canada. Databases that meet the requirements for copyright protection are treated under copyright law like any other work. The definition of "compilation" in Canada explicitly includes "a work resulting from the selection or arrangement of data." In addition, databases can be also protected by legislation on unfair competition and trade secrets.

Limitations and exceptions: In addition to various specific exceptions to copyright infringement that are tailored to particular uses in certain contexts, the Copyright Act includes a general exception to engage in "fair dealing" with copyright material, provided that it is undertaken in respect of one of a limited number of enumerated purposes (namely: research or private study; criticism or review; news reporting; education; and satire and parody), and provided that the use in question is "fair". Whether a dealing is "fair" depends on a series of criteria set out by the courts, including the purpose of the dealing, the character of the dealing, the amount of the dealing, the nature of the work, available alternatives to the dealing and the effect of the dealing on the market of the work.

Orphan works: Section 77 of Canada's Copyright Act comprises a supplemental licensing scheme for orphan works. In order to get a licence, an applicant must demonstrate that "reasonable efforts" to locate copyright holders were made. The licence is issued by the Copyright Board of Canada and is only valid in Canada for a specified amount of time and typically involves a royalty payment (either upfront to a collective society or to an owner if one emerges).

C**opyright registration:** Copyright registration is not required in Canada, although it confers certain procedural benefits in cases of copyright infringement. The cost of copyright registration is CAD 50 for an application filed online and CAD 65 for an application filed by any other means. To register a copyright, the applicant must submit an application form that includes information, including the name and address of the owner of the copyright; a declaration; the category of work; the title of the work; the name of the author.

Enforcement: Canada's IP enforcement agencies are the following:

The Royal Canadian Mounted Police (RCMP), the Canadian national police service, is responsible for enforcing intellectual property rights, including offences for copyright infringement. Criminal cases investigated as a matter of priority by this service relate to copyright piracy on a commercial scale by a manufacturer, wholesaler or importer.

The Public Prosecution Service of Canada (PPSC) is responsible for prosecuting offences under more than 50 federal statutes, including the *Copyright Act*, and for providing prosecution-related legal advice to law enforcement agencies, such as the RCMP.

The *Canada Border Services Agency* (CBSA): The *Combating Counterfeit Products Act* provides the following new powers to the CBSA: *i)* temporarily detain suspected counterfeit and pirated goods on their initiative or at the request of rights holders, *ii)* contact rights holders regarding suspected counterfeit or pirated shipments, and *iii)* provide rights-holders with information to facilitate a civil action.

Currently, the CBSA relies on the RCMP, or other government departments such as Health Canada, when counterfeit or pirated products are identified through the course of regular duties at the border in order for appropriate enforcement action to be undertaken. The CBSA will detain alleged counterfeit content when presented with a court order to this effect.

Current debate

Summary of recent debates: The public debate on "copyrights in the age of the Internet" seems to be relatively advanced in Canada. It has been taking place for several years, and gathered numerous experts from the government, academia, think tanks, industry and civil society.

Each time an amendment to the copyright regime is planned, a public debate takes place. For example, a study of the *Copyright Act*, entitled "Supporting Culture and Innovation", was concluded in 2002 and tabled in Parliament, as required by the *Copyright Act* [33].

More recently, in 2009, the Canadian Government launched public consultations on copyright policy. It provided a platform for several discussion themes that looked at various aspects of the planned reform, such as: "Copyright and You", "Test of Time", "Innovation and Creativity", "Competition and Investment" and "Digital Economy". For example, the theme "Copyright and You" looked for inputs on how Canada's copyright laws affect individual consumers and how should existing laws be modernised. The theme "Innovation and Creativity" asked discussants what sorts of copyright changes would best foster innovation and creativity in Canada. The debates informed the Government of Canada's modernisation of copyright legislation [34].

In 2014, the government launched its Digital Canada 150 initiative, which represents a comprehensive approach to taking full advantage of the opportunities of the digital age. The objective is that by 2017:

- The majority of consumers will have access to high-speed Internet at 5 megabits per second (Mbps) and to the latest wireless technologies;
- Consumers will be protected from online threats and misuse of digital technology;
- Canadians will have the skills and opportunities necessary to succeed in an interconnected global economy;
- The government of Canada will demonstrate leadership in the use of digital technologies and open data; and

- Copyright-intensive industries will have greater capabilities to seize digital opportunities, promote Canadian content and play a more prominent role in the global marketplace.

Industry associations: There are many industry associations in Canada, including in the music, film and television, books and periodicals, visual arts, videogames and broadcasting sectors. In light of the fact that Canada is a bilingual country, there are often associations whose activities focus on the English Canadian market and those whose activities focus on the French Canadian market[35]. These associations carry out a number of activities, including: *i)* lobbying, stakeholder coordination and engaging in public debate about copyright, *ii)* collective rights management, *iii)* countering copyright infringement (intelligence collection, collaboration with relevant enforcement authorities, training of public authorities), *iv)* awareness raising campaigns in the area of copyrights, and *v)* data collection.

Industry best practices Major Canadian Internet Service Providers (ISP) have voluntarily participated in a "notice and notice" regime for a number of years. Under this system, when an ISP receives a notice from a copyright holder that a subscriber might be infringing copyright, it forwards a notice to the subscriber. The identity of the subscriber may then be released with a court order. The *Copyright Modernization Act* includes a provision that formalises this system.

Chile

Copyright-intensive industries: Market overview

Value added: The existing dataset present only a general picture of copyright-intensive industries in Chile. According to the data presented by the Chilean National Council for Culture and the Arts on cultural industries in general, copyright-intensive industries contributed 1.58% of the GDP in 2009.

Employment: Unfortunately, there is no detailed datasets on copyright-intensive industries in Chile. The existing data published by the National Council for Culture and the Arts indicated that the copyright-intensive sector employed 2.3% of total employees in Chile.

Legal landscape

Current copyright legislation: In Chile the legal issue of copyrights is regulated by the Law N°17336 Intellectual Property Act that first passed in 1970, and amended several times.

Recent evolution: The main recent amendment was made in 2010 with the focus to counter digital piracy and protect the rights of content creators given the recent technological changes[36].

Duration of copyright: In Chile copyright protection generally ends 70 years following the death of the last living author.

Institutional setting: *Departamento de Derechos Intelectuales* (DDI) is the government special agency in charge of the Intellectual Property Record: Copyrights and Related Rights (Title IV Law N° 17.336 and its Regulations). Since its creation in 1970 the DDI depends on the *Dirección de Bibliotecas, Archivos y Museos* (DIBAM) and has the specific mission of manage the public records related with copyright and related rights, foster the protection of such rights and keep the fixations of the intellectual productions that make its collections contributing thus with the formation, development and sustainability de national culture of respect for the intellectual property.

The DDI has the following functions:

- To register intellectual works.
- To register acts and contracts of assignment or transfer of copyright and related and their termination.
- To register publishing contracts for literary works, judgments and pseudonyms.
- To issue relevant certificates.
- To examine queries and to issue reports for the privates and public services.
- To provide advice to the government in all matters related with copyright and related rights.

In addition, to the DDI, two other institutions have copyright-related functions. The National Council for the Culture and the Arts (CNCA) distributes grants to right holders and runs awareness campaigns. DIRECON, is responsible for copyright issues related to the foreign policy. It coordinates with relevant national agencies and participates and represents Chile in relevant international fora.

Database protection: There is no sui generis protection of databases in Chile. Databases that meet the requirements for copyright protection are treated under copyright law like any other work.

Limitations and exceptions: Chile adopted recently a system that permits in certain cases legal, unauthorised copying of copyrighted material. It includes for example creation of backup software copies or citations. The relevant provisions were introduced by the law N° 20.435 that amended the Intellectual Property Act in 2010. It includes the Title III called Limitaciones y Excepciones al Derecho de Autor y los Derechos Conexos[37].

Orphan works: There is no explicit policy for orphan works in Chile.

C**opyright registration:** Registration is voluntary and in case of infringement greatly facilitates potential judicial actions. The DDI holds the copyright register in Chile.

Enforcement: Chile's IP enforcement agencies are the following:

Police of Investigations of Chile (Policia de Investigaciones de Chile, PDI) established in 2008 its *Brigada Investigadora de Delitos de Propiedad Intelectual* (BRIDEPI), a dedicated unit to deal with intellectual property crimes.

The *National Council for Culture and the Arts* (CNCA) and the *Secretariat for the Prevention of Crime* have recently signed an agreement which, among other things, is going *i)* to facilitate the transfer of information necessary to efficiently combat crimes against intellectual property *ii)* to establish a list of crimes for which information is delivered quarterly.

Custom Authorities are in charge of the enforcement of the Title II Borders Measures for the enforcement of Intellectual Property Right Law N° 19912.

Current debate

Industry associations and industry initiatives: There are several industry associations in Chile, including industry groups in several sectors, and collective societies. The main ones include: International Federation of the Phonographic Industry – Chile, Motion Picture Licensing Corporation Chile, and SCD (Sociedad Chilena del Derecho de Autor). These associations carry out a number of activities, including: *i)* lobbying, stakeholder coordination and engaging in public debate about copyright *ii)* collective rights management, *iii)* countering copyright infringement (intelligence collection, collaboration with relevant enforcement authorities, training of public authorities) and awareness raising campaigns in the area of copyrights.

Several good examples of relevant industry initiative can be found in the area of education and outreach, such as the alliance between CERLALC, UNESCO and DDI "united for the education of children". This initiative provides essential educational tools for a child to learn about the importance of copyright and related rights and their societal impacts[38]. Another example that can be highlighted is the campaign "Protect your idea" that promotes the rules related to the enforcement. This campaign was a joint initiative of public and private institutions[39].

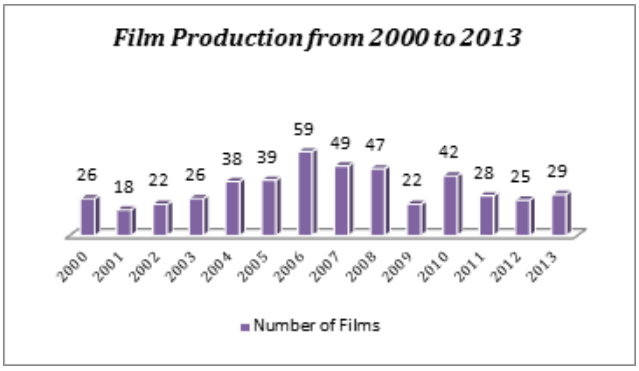
Egypt

Copyright-intensive industries: Market overview

The existing dataset present only a general picture of copyright-intensive industries in Egypt. In particular, lack of detailed statistics at the industry level does not permit to estimate the precise contribution of copyright-intensive industries to Egyptian GDP, and their share of employment using the WIPO (2003) classification method. Available studies suggest that copyright-intensive industries contributed to up to 0.5% of the Egyptian GDP in 2000 (WIPO, 2003 and Harabi, 2004)[40]. Available estimates provide also some picture of foreign trade of copyright-intensive sectors in Egypt with export volumes of USD 898 million in 2008 and import volumes of USD 602 million imports[41]. These statistics can be explained in terms of existence of the copyright-intensive industries implicitly in these exports and imports. Caution should be paid, when interpreting these results, since the presented data is rather old, and since not all copyright-intensive industries were taken into account.

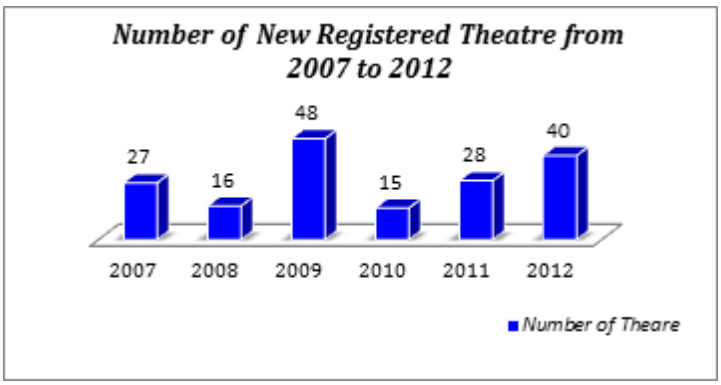
Some other available data present Egypt's developed markets for creative content, where copyright-intensive thrive. An illustrative example is the Egyptian movie industry that dominates Arabic movie production. Estimates suggest that the majority of all movies in Arabic are produced in Egypt (WIPO, 2003). It should be kept in mind that there are more than 422 million native speakers of Arabic according to UNESCO, but it is hard to assess the precise number[42]. Moreover, the cultural links between Arab countries go far beyond the common language and meld into literature, cinema, music and other media that are shared within the Arabic-speaking region. This is reflected in available data on the movie industry. Between 2000 and 2013 this industry produced yearly 34 movies on average, with some fluctuations over that period (Figure 5.17). Apart from exports to other countries, this production also supported domestic theatre sector that reported constant growth over the recent years (Figure 5.18).

Figure 5.17. Film production in Egypt, 2007 – 2012



Source: Based on information from the Egyptian Chamber of Cinema Industry

Figure 5.18. New theatre registrations in Egypt, 2007 – 2012



Source: Based on information from the Egyptian Chamber of Cinema Industry

Finally, some relevant insights on copyright-related activities of Egyptian ICT industry can be found in a survey based study of Egyptian SME's in the ICT sector by Hegazy and Gadallah (2013). Their study found that these enterprises are particularly active in terms of copyright licensing: 43% of the surveyed SMEs grant licensing in copyright and neighbouring rights, whereas 39% of them use copyright and neighbouring rights licenses granted by other firms (See Annex for more details).

Legal landscape

Current copyright legislation: In Egypt the legal issue of copyrights is regulated by the Law No. 82 (2002), Book 3 starting from the Article No. 138 to Article No. 188.

Duration of copyright: In Egypt copyright protection generally depends on the type of work. For authors of copyrighted work, copyright ends 50 years after their death (50 years calculated from the production or publishing date if the owner is not a person). For performers, copyrights end 50 years after the performance. For broadcasts, copyrights ends 20 years after broadcasting year.

It should be highlighted that this durations does not apply to moral rights, which do not expire in Egypt.

Institutional setting: In Egypt the Permanent Office for the Protection of Copyright at the Ministry of Culture is primarily in charge of copyright-related issues. In addition, the Broadcasting and Audio-Visual Work Protection Office at the Ministry of Information deals with audio-visual work, and the intellectual Property Rights Protection office at the Information technology industry development Agency (ITIDA) is in charge of software-specific issues.

Database protection: There is no sui generis protection of databases in Egypt. Databases that meet the requirements for copyright protection are treated under copyright law like any other work.

Limitations and exceptions: According to the Egyptian law (Article No. 171) the following cases of use for copyrighted material do not require copyright holder's approval:

- Use of work in family context or student gathering within the educational institution, to the extent that no direct or indirect financial remuneration is required;

- Making a single copy of the work for exclusive personal use, provided that such a copy shall not hamper the normal exploitation of the work, nor cause undue prejudice to the legitimate

interests of the author or copyright holders. It should be highlighted that there are several exceptions to this case, such as: *i)* reproduction or copying works of fine, applied or plastic arts, unless they were displayed in a public place, or works of architecture*; ii)* reproduction or copying of all or a substantial part of the notes of a musical work; *iii)* reproduction or copying of all or a substantial part of a database or computer program.

- Making a single copy or an adaptation of a computer program for archiving purposes or to replace a lost, destroyed or invalid original copy (with rights holder's consent).
- Analysis of copyrighted work, excerpts, quotations, criticism, discussion or information.
- Reproduction based on protected works for legal or administrative purposes, provided that the source and the name of the author are mentioned.
- Reproduction of short extracts from a work for teaching purposes in educational institutions.
- A single copy of the work for documentation or archiving purposes in a dedicated archiving centre.
- Ephemeral reproduction of a work where such reproduction is made in relay, during a digital transmission of the work or in the course of a process of reception of a digitally stored work, within the normal operation of the device used by an authorised person.

Orphan works: There is no explicit policy for orphan works in Egypt.

C**opyright registration:** Copyright registration in Egypt is voluntary and in case of infringement greatly facilitates potential judicial actions. Most works can be registered at the Copyright protection office, Ministry of culture. In addition audio and video works can be registered with the Ministry of Information, some software work can be registered with the Information technology industry development Agency (ITIDA). Fees depend on the type of registered work, and vary between EGP 25 (USD 3.50) and EGP 500 (USD 70). See the Annex 2 for more details.

Enforcement: The Investigation Unit within the Ministry of Interior is dedicated to copyright infringement cases. In addition Egyptian Customs authorities are currently working on a mechanism for improved handling of imports and exports of pirated products.

Current debate

Industry associations and industry initiatives: There are several industry associations in Egypt, including industry groups in several sectors, and collective societies. These associations include:

- Egyptian Chamber of Cinema Industry (includes 1797 industrial institutions - companies)
- Society of Authors, Composers and Publishers of the Arab Republic of Egypt
- Alam El Phan (media group)
- Egyptian Chamber of Printing Industry
- Egyptian Chamber of Information Technology & Communication Industry
- El Massah
- Oscar for Production & Cinema Distribution
- El Nasr Film
- Arab Society for Cinema Production& Distribution
- El Sobki Film For Cinema Production
- Albatros Artistic Production &Distribution

- Egyptian Publisher Association (503 Member) (EPA)
- Egyptian Writers Union (Writers' Union of Egypt) (879 Member)
- The Egyptian Film Centre (CNC) (The National Film center)
- Media Production City (MPC)
- Rotana Group
- Cinema professions Syndicate
- Applied arts designers syndicates
- Syndicate of Actors
- Syndicate of Musicians
- Syndicate of Artists
- Syndicate of Artistic applied professions
- El Sobki Video Film
- New Century Production
- Al Adl Group
- United Brothers Cinema Production
- Film Clinic
- Karim Sobki Films/ Production & distribution
- Good News for Film & Music
- United Artistic Group
- Misr Cinema & Artistic Production
- GuirguisFawzi Films
- MISR Al-Alameya Films
- Film House

These associations carry out a number of activities, including:

- Collective rights management; done by the Society of Authors, Composers and Publishers of the Arab Republic of Egypt (SACERAU), a multi-disciplinary collective management body.
- Countering copyright infringement (intelligence collection, collaboration with relevant enforcement authorities, training of public authorities).
- Awareness raising campaigns in the area of copyrights.
- Data collection.

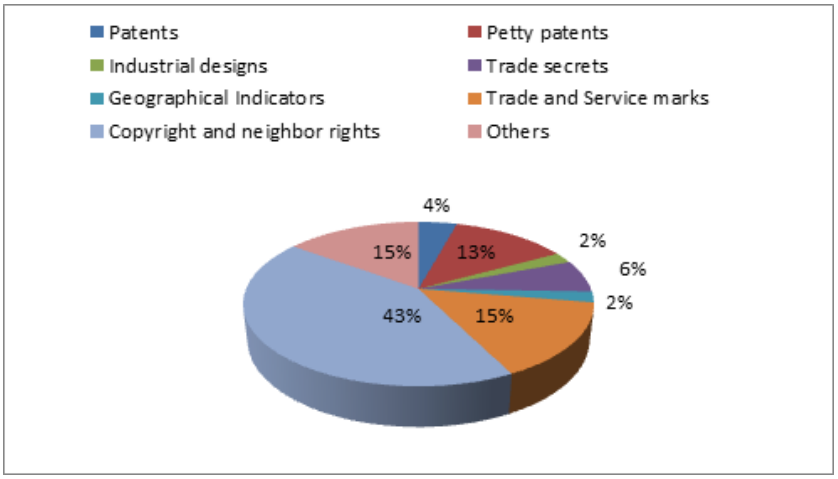
Concerning industry initiatives, an illustrative example is the Egyptian Publisher Association that has recently completed drafting of the rules of good practices for the publishing profession. It also held a number of training courses in co-operation with the German Goethe Institute. Currently new training programs are being developed in co-operation with the chamber of printing industry.

Egypt country study annex 1: Copyright-related activities in the Egyptian ICT industry (SMEs)

In the context of Egyptian copyright-related industry, some lessons can be drawn from a empirical study by Hegazy and Gadallah (2013), who surveyed micro, small and medium enterprises in the IICT field. In terms of value added they found that 53.5% out of all the responding firms reported their outputs to be used as inputs for other enterprises in the market, which reflect good backward and forward network integration among enterprises. This can be explained in high value added and hence more of injection in the GDP. In addition to 42.8% of the selected sample reported that the nature of their products is more a service than goods. Furthermore, about 86.6% of the surveyed enterprises stated that the intellectual property IPR of their products represents original efforts of these enterprises which reflect the importance of IPR in this industry. However, only 24.6% of the selected sample legally protected their intellectual assets.

As noted in Figure 5.19, 43% of the surveyed enterprises grant licenses in copyright and neighbouring rights, 15% in trade and service marks and 13% in petty patents. On the other hand, there is small number of enterprises responded report any information about the percentage of royalty out of their annual net profits they get it. Only 4 enterprises reported that they get less than one per cent as a royalty from licensing their intellectual products to others versus 16 enterprises get less five per cent and six enterprises ranged between three per cent and less than five per cent.

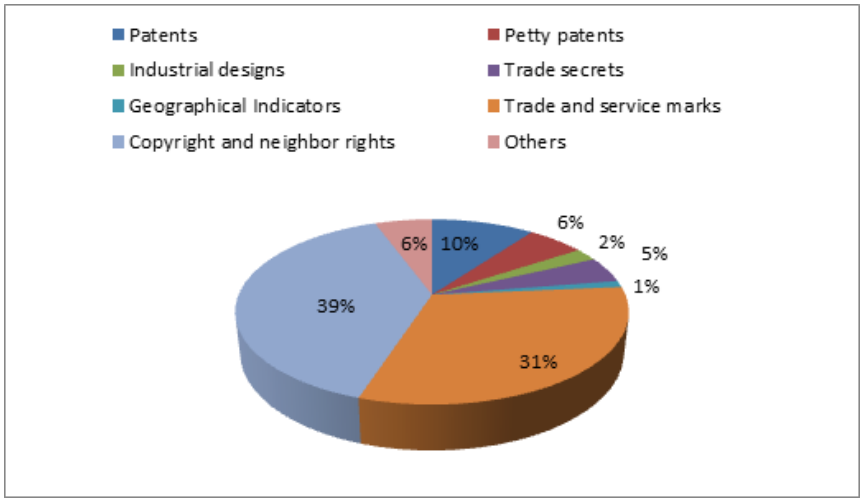
Figure 5.19. Distribution of licensing by surveyed micro, small and medium enterprises



Source: Hegazy and Gadallah (2013).

Concerning the exploitation of the intellectual property of other enterprises by the surveyed enterprises, about 26.2% of the sample reported that they produce based on a licensing from others. As illustrated in Figure 5.20, 39% of the surveyed enterprises grant licensing in copyright and neighbouring rights, 31% in trade and service marks, 10% in patents, 6% in petty patents and 5% in trade secrets.

Figure 5.20. Distribution of licensing by other enterprises to the surveyed ones



Source: Hegazy and Gadallah (2013).

To measure the return on R&D spending, Hegazy and Gadallah, (2013) surveyed the enterprises asking about the type of their innovation as results of R&D spending. 64.7% of the sample reported that they create new products while 10.7% of the sample told us that they succeeded in opening new markets for their products versus 5.9% of the sample to create new process of production. Accordingly, it was essential to ask them whether they depend on other enterprises to produce these innovations. Roughly 66.3% of the respondents in the sample clarified that their enterprises create the innovations totally rely on themselves versus 14.9% partially by other enterprises. Moreover, 48.6% of the respondents decided that their innovation had strong and positive influence on the performance of their enterprises, while the impact was moderate as 26.2% of the sample reported.

Table 5.4. Egypt country study annex 2: Copyright registration fees in Egypt

Copyright Protection Office, Ministry of Culture	
A certificate for a written text of a work or design formation	EGP 200 (USD 28)
A certificate for the performance of an audio, or audio-visual work of one unit or episode.	EGP200 (USD 28); fees depend on the number of episodes, provided that they do not exceed EGP 1,000 (USD 140)
A certificate for a recorded performance that does not exceed one hour	EGP 200 (USD 28)
A certificate for a recorded performance that does not exceed four hours.	EGP 500 (USD 70)
A certificate for an episode of a radio or TV broadcast.	EGP200 (USD 28); fees depend on the number of episodes, provided that they do not exceed EGP 1,000 (USD 140)

Broadcasting, Audio, and Audio-Visual Work Protection Office, Ministry of Information	
Audio works	
All kinds of speeches, symposiums and comments as well as political analyses and religious material	EGP 200 (USD 28)
Poetry, lyrics, short stories, dramatic works and the elements thereof as well as music and singing and the elements thereof	EGP300 (USD 42)
Audio-visual works	
Celebrations, occasions, evening shows, documentary films, shows, cartoons and graphics.	EGP400 (USD 56)
Tv series, sevenfold TV series, plays, as well as short and/or long movies	EGP 500 (USD 70)

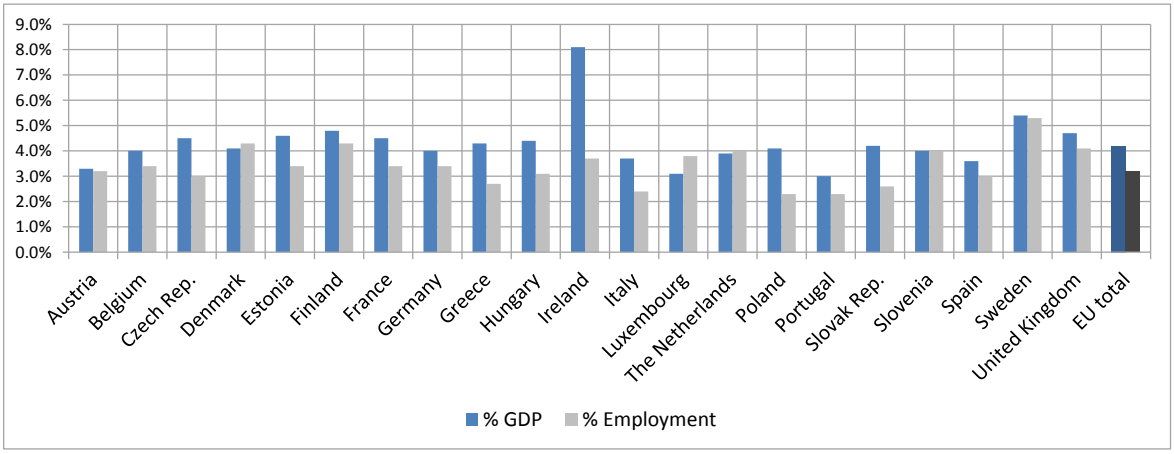
The Intellectual Property Rights Protection Office, Information Technology Industry Development Agency (ITIDA)	
Educational computer works (software and databases) used in all kinds and levels of education.	EGP25 (USD 3.50)
Computer works (software and databases) not related to education.	EGP 50 (USD 7)

The European Union

Copyright-intensive industries: Market overview

In 2010 the total contribution calculated for the core copyright-based industries[43] in the EU was 4.2% of total GDP. The total number of people employed (full time) in copyright-intensive industries represented 3.2% of all employees (Figure 5.21). The numbers varied across the EU member states. The highest contribution to the GDP was recorded for Ireland (8.1%), whereas the lowest for Portugal (3%), Employment rates ranged between 2.3% (Poland and Portugal) and Sweden (5.3%).

Figure 5.21. Added value and employment in copyright-intensive industries (2010, % of total)



Source: EPO-OHIM (2013).

Legal landscape

Current copyright legislation: The copyright law of the EU consists of a number of directives and aims to harmonise the differing copyright laws of the EU member states. The member states are obliged to include these directives into their national legal frameworks. Specifically, the relevant ones are the Directives of the European Parliament and of the Council on:

- collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (2014/26/EU)
- certain permitted uses of orphan works (2012/28/EU)
- the legal protection of computer programs (2009/24/EC)
- rental right and lending right and on certain rights related to copyright in the field of intellectual property (2006/115/EC)
- the term of protection of copyright and certain related rights (2006/116/EC and 2011/77/EU)
- enforcement of intellectual property rights (Enforcement Directive, 2004/48/EC)
- on the resale right for the benefit of the author of an original work of art (2001/84/EC)
- on the harmonisation of certain aspects of copyright and related rights in the information society (Copyright Directive, 2001/29/EC)
- the legal protection of databases (96/9/EC).

- Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (93/83/EEC)

Duration of copyright: Directive 2006/115/EC harmonised the term of protection of copyright setting it 70 years following the death of the last living author and neighbouring rights (50 years from the moment triggering the protection, e.g. the fixation of a phonogram). Directive 2011/77/EU extended the term of protection for performers and the producers of sound recordings to 70 years.

Database protection: The 1996 introduced Database Directive (96/9/EC) aims to provide harmonised copyright protection to databases in the EU. It introduces a new specific sui generis right for the creators of databases. According to this Directive databases that do not qualify for copyright protection, enjoy a 15-year protection.

Limitations and exceptions: The Copyright Directive outlines an exhaustive list of optional specific copyright exceptions which EU member states may introduce into national legislation. It includes, for example copies made for teaching or scientific research purposes, quotations for purposes such as criticism or review, caricature, parody or pastiche, etc[44].

Orphan works: Generally, the issue of orphan works has not been regulated so far the EU level. The Directive of the European Parliament and of the Council on certain permitted uses of orphan works (2012/28/EU) sets out common rules on the digitisation and dissemination of orphan works. The Directive will be implemented in the legislation of the Member States by the 29th October 2014.

Copyright registration: Copyright cannot be registered at the EU level. However, the EU copyright framework does not regulate the possibility to introduce voluntary registration of copyright works.

Enforcement: Article 8 of the 2001/29/EC Directive (InfoSoc Directive)[45] introduces provision that EC member states shall introduce in the area of on-line copyright enforcement. It calls for appropriate sanctions and remedies in respect of infringements of copyrights, effective enforcement, and enabling rights' holders to apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right.

The Directive on the enforcement of intellectual property rights (2004/48/EC) refers to all intellectual property rights including copyright and related rights. This Directive creates a level playing field for right holders in the EU by requiring all Member States to apply effective, dissuasive and proportionate remedies and penalties against those engaged in counterfeiting and piracy.

Current debate

Summary of recent debates: With the emphasis on completing the Digital Single Market to help deliver growth in Europe, the debate on copyright has intensified in Europe over the last few years, and gathered numerous experts from the member states' governments, industry (see below) and civil society (e.g. European Digital Rights, EDRI; The European Consumers' Organisation, BEUC).

The "Green Paper on copyright in the knowledge economy" provided a starting point for the debate[46] and triggered the copyright-related discussion in the EU.

This was in turn reflected in in several subsequent actions, such as the initiative Licences for Europe launched by the Commission in 2013. The initiative was launched in February 2013 with the objective to deliver industry-led solutions to address practical barriers to the circulation of content in the digital age. It involved active participation of numerous stakeholders, mostly from the copyright-intensive industries. At

its closing session in November 2013, *Licences for Europe* participants made several pledges to overcome problems European citizens may face in four areas: cross-border access and portability of services; user-generated content and micro-licensing; audio-visual heritage and text and data mining.

Shortly after the *Licences for Europe* closing session, the EC launched official public consultations on the review of the EU copyright rules. The consultations have generated broad interest with more than 9500 replies received from a wide range of stakeholders including users, consumers, right holders, industry, collective management organisations and governments[47].

In addition, recently, numerous EU member countries have called for views for the debate, and several member states conduct debates on that topic.

Industry associations: There are many industry associations in The EU, including in the music, film and television, books and periodicals, visual arts, videogames and broadcasting sectors. The main ones include:

- Business Software Alliance (BSA)
- European Federation of Journalists (EFJ)
- European Grouping of Societies of Authors and Composers (GESAC)
- Federation Internationale des Acteurs (FIA)
- Federation of European Publishers (FEP - FEE)
- Interactive Software Federation of Europe (ISFE)
- International Federation of the Phonographic Industry (IFPI)
- International Video Federation (IVF)
- Sports Rights Owners Coalition (SROC)
- The European Newspaper Publishers' Association (ENPA)
- The Society of Audiovisual Authors (SAA)
- UNI Global Union media, entertainment & arts (UNI MEI)
- European Federation of Joint Management Societies of Producers for Private Audiovisual Copying (EUROCOPYA)
- Independent Music Companies Association (IMPALA)

These associations carry out a number of activities, including: *i)* lobbying, stakeholder coordination and engaging in public debate about copyright *ii)* collective rights management, *iii)* countering copyright infringement (intelligence collection, collaboration with relevant enforcement authorities, training of public authorities), *iv)* awareness raising campaigns in the area of copyrights, and *v)* data collection.

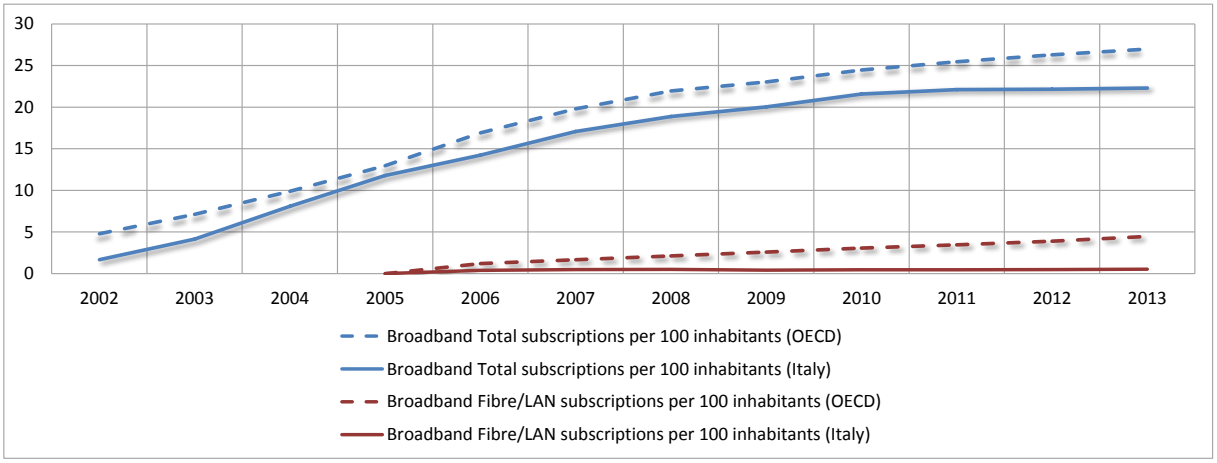
Italy

State of the Internet

In recent years access to broadband networks and the Internet has steadily increased in Italy. In addition, further deployments of fibre networks have taken place. Overall, however, broadband penetration rates and the deployment of fibre in Italy are still below the OECD averages (see Figure 5.22).

Figure 5.22. Broadband penetration rates in Italy

2002-2013, per 100 inhabitants

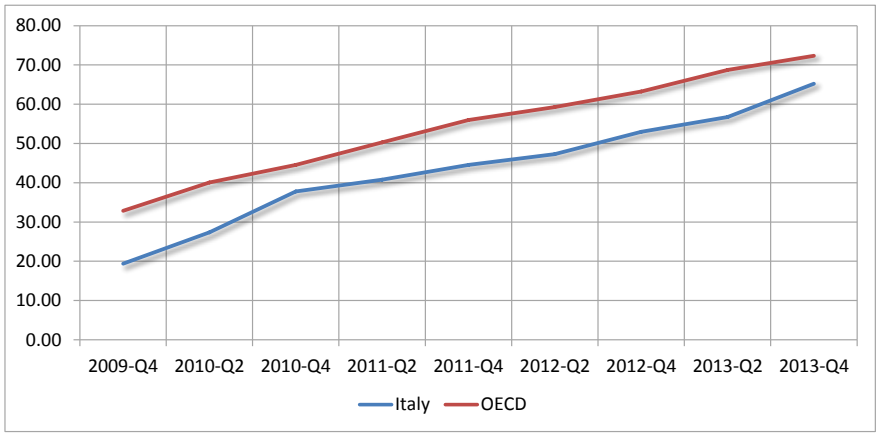


Source: OECD Broadband Portal

More recently there has been rapid and substantial growth in mobile broadband access in Italy, opening up new communication possibilities to people as they are away from a fixed-line connection. Mobile broadband penetration has grown to 65% in Italy, which is at a comparable level with the OECD average that has grown to more than 70% (Figure 5.23).

Figure 5.23. Mobile broadband subscriptions in Italy

2009-2013, per 100 inhabitants



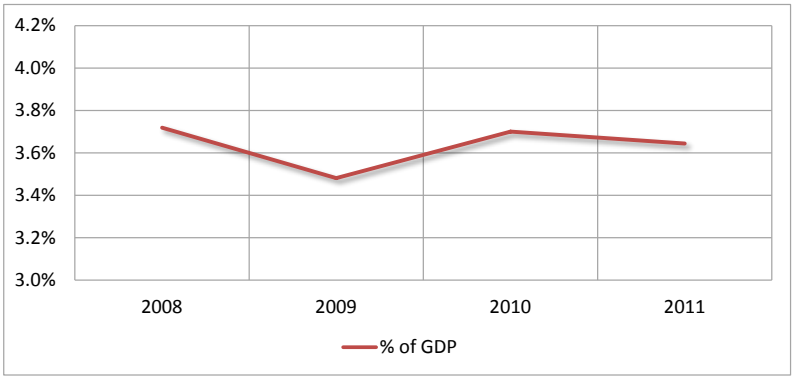
Source: OECD Broadband Portal

Copyright-intensive industries: Market overview

Value added: Over the past years copyright-intensive industries in Italy have demonstrated overall stable performance[48]. Between 2008 and 2011 the total share of the copyright-based industries within the Italian economy remained rather stable, accounting for 3.65% of Italy's GDP in 2011 (Figure 5.24).

Figure 5.24. Added value of copyright-Intensive industries in Italy

2008-2011, % of GDP

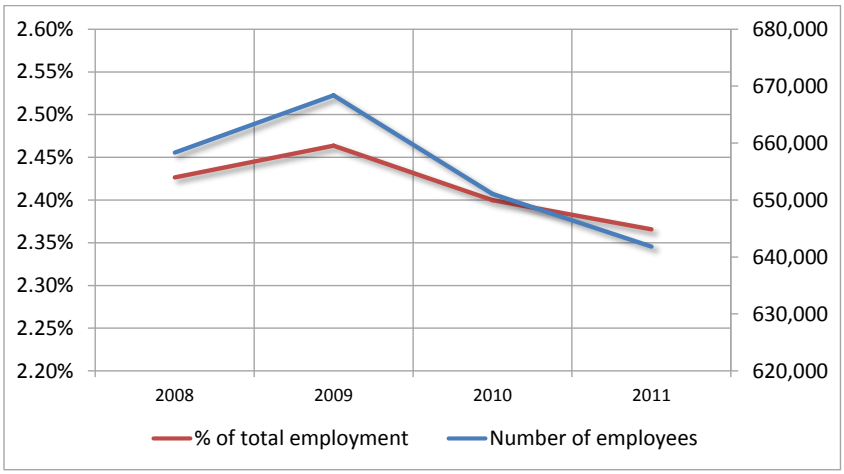


Source: Eurostat SBS database and EPO-OHIM (2013).

Employment: In 2011 the total number of people employed in copyright-intensive industries represented 2.3% of all employed by Italian industry. Between 2008 and 2011, the overall share of people employed in copyright-intensive industries in total industry employees remained relatively stable, reporting some small fluctuations. The total employment also reported some fluctuations over that period. In 2011 it amounted to 641,000, which was slightly less than the volume of employment in these industries in 2008 (Figure 5.25).

Figure 5.25. Employment in copyright-intensive industries

% of total employment (left axis) and volume of employment (right axis)



Source: Eurostat SBS database.

Copyright-intensive industries and the Internet economy: Italian copyright-intensive industries successfully leverage the technical opportunities offered by the Internet. Several of successful start-ups can be found in the music, gaming and video sectors (see Box). In addition Italian fashion industry also takes advantage of the copyrights in order to protect content and creations in addition to other, more conventional ways of IPR protection, such as design and trademarks (see Box 5.5.).

Box 5.5. Italian creative businesses on the Internet: Dropin, Chili-TV, Jaqard

Dropin is a "cloud recording studio" that can be accessed from a desktop or from a mobile device. Users of *Dropin* can create their own music, based on dedicated software and share it with other users. Users of *Dropin* include A artists, bands, and music professionals.

Chili-TV is, one of the most rapidly growing Italian legitimate platforms for movie streaming and downloads. Over the past few it has reached volume of content comparable to the biggest international competitors. *Chili-TV* builds its strategy on several pillars, including user-friendly design and quick service delivery, competitive pricing schemes and cooperation with main Italian national multimedia groups (RCS) and main players in other content distribution channels (e.g. UCI Cinemas).

Jaquard is an on-line personal styling community that brings together fashion and software industries. Based on a dedicated mobile app *Jaquard* facilitates information and advice exchange in the area of personal style and fashion. Questions that *Jaquard* community addresses are: "What could I wear with this?", "What looks similar with this?" and "What else is in this style?"

The term “lyrics” is one of top searched term on Google, which indicates that a large number of users people every month Google “lyrics” in order to get song’s lyrics for their music but since musiXmatch launched on the market it has changed consumer behaviors by allowing users to scan their music library to retrieve lyrics via *musiXmatch* apps. *musiXmatch*’s idea in early 2010 was to build the world’s largest lyrics catalog and have it licensed with Top Music Publishers like Sony/ATV,Warner Chappell, Universal Music Publishing Group, EMI Publishing, BMGChrysalis, Kobalt Publishing, and Harry Fox Agency for worldwide distribution. Currently musiXmatch is the most popular lyrics destination on mobile and connected devices with more than 20 million people in the world. musiXmatch provides also an Official Lyrics API (application program interface), empowering 3rd party companies and apps with musiXmatch’s lyrics catalog to the music market.

Sources: https://www.dropin.fm, http://www.chili-tv.it/, http://www.jaqard.com, http://musixmatch.com/resources/

Legal landscape

Current copyright legislation: In Italy the legal issue of copyrights is regulated by the *Diritto d'autore* (Copyright law) no. 633 of 22 April 1941. Over the years, the law of copyright has been updated through several national amendments and the transposition of European directives.

Recent evolution: Over the past years there have been several amendments of the Copyright Act. The main recent ones include:

- 1993: Introduction of private permitted use (see the point “Limitations and exceptions).
- 2004: Prohibition of peer-to-peer exchange of protected files regardless of the intended use of the shared file. The “Urbani Decree” dating back to 2004 established that even those making use of protected files for purely personal purposes may be liable to punishment; before the decree came into effect, there were no penalties for sharing files protected by copyright where the use was not for profit. The Urbani Decree was converted into Law 128 on 18 May 2004, with the introduction of alternative penalties (fines instead of prison as in the first draft of the decree) for the users caught in the act of breaching the copyright law.

- 2009: The Italian legislative decree of 8 June 2001 number 231 introduced criminal liability for companies, linked to the commission of certain crimes, made by managers or employees, which provides for pecuniary penalties and disqualification. Companies would survive their liability claims if they can prove that they have adopted and updated a specific document named "organisational model" aimed at the prevention of certain crimes. Law number 99 of 2009 extended the list of such crimes to certain offenses set forth in the Italian copyright law.

- 2013: By Law n. 112 of October 7, 2013 (published in G.U. of 8 October 2013, n. 236), the Article 15 of the Copyright Law was modified by adding the following last paragraph: "The public recitation of literary works effected, without purpose of gain, within public museums, libraries and archives, for the exclusive purpose of cultural promotion and valorisation of the same works, to identified on the ground of memorandums of understanding between SIAE and the Ministry of Culture is not to be considered as a public performance."

- 2014: After a long parliamentary discussion, the Chambers approved a bill (Law 67/2014) decriminalising various offenses under the Italian law (it converts various offences into civil wrongs). Article 2 of the law excludes the IPR matters from the decriminalisation process.

- 2014: The Decree of June 20, 2014 by the Ministry for Heritage and Cultural Activities (MiBAC) (Official Gazette n.155 del 7-7-2014) has updated the amounts of private copying levies on recordable media and on apparatus provided with electronic memory.

Duration of copyright: In Italy copyright protection generally ends 70 years following the death of the last living author. In cases when rights are held by academia, non-profit organisation, or public institutions copyright protection ends 20 years from the first public presentation.

Institutional setting: In Italy the issues related to copyright are within the competencies of:

- The Ministry for Heritage and Cultural Activities and Tourism (MiBACT) at the Third Service Copyright and Supervision of the "Società Italiana degli Autori e Editori"(SIAE) of the Directorate General for libraries, cultural institution and copyright.

- The Presidency of the Council of Ministers at the Department for Information and Publishing

In addition, the *Guardia di Finanza* (Fiscal Police) is the main enforcement authority for most of the copyright sectors. The Fiscal Police deals with cases involving infringement of film, music, software and videogames, in cooperation with the "GAT" department, a special division dedicated to online fraud.

Database protection: In Italy if a database meets the originality criteria, it is treated as a literary work and is protected under the law of copyright. In addition, all databases in the Italy are protected by Act of 27 July 2001 on databases protection, which followed the directive 96/9/EC of the European Parliament and of the Council, of 11 March 1996 on the legal protection of databases.

Limitations and exceptions: Italian law allows for reproduction use of copyrighted material for private purposes. In addition existing regulations permit the use of copyrighted material for the purpose of criticism, parody, public debate and non-commercial teaching.

Orphan works: This area does not seem to be yet explicitly regulated by the Italian national legislation. Projects of new legislation that will comply with the directive of the European Parliament and of the Council on certain permitted uses of orphan works (2012/28/EU) are currently debated.

Copyright registration: Copyright can be registered in Italy before the Public Registry of Protected Works, held by the Ministry for Heritage and Cultural Activities (MiBAC), with the exception of movies and audio-visual work (for which a special registry provided for by law 1001/2010 is not operative as of yet) and with the exception of software. Software can be registered in the "Registro Pubblico Speciale per Programmi per Elaboratore", held by SIAE ("Società Italiana degli Autori ed Editori")

Enforcement: Concerning enforcement, most actions in this area are co-ordinated by the Fiscal Police (*Guardia di Finanza*) in co-operation with a special police department dedicated to online fraud (GAT). In 2013 GAT carried out some of the most effective and large-scale operations against online copyright infringements, with actions against some of most significant international illegal portals available in Italy, as well as investigations and seizures of some well-known Italian sites. Other successful actions taken by the Fiscal Police include actions against Italian linking sites, illegal streaming services with movies and television program and cyberlockers sites.

Regarding the enforcement-related legislation, the new regulation that came into force March 2014 enables Italian Communications Regulatory Authority (AGCOM) to order, after verifying the violation, the removal of content protected by copyright uploaded illegally on website hosted in Italy and to block access to website hosting massive piracy including those outside Italian jurisdiction[49]. On Sept. 26, 2014, the Administrative Court of Lazio referred to the Italian Constitutional Court a question regarding the constitutionality of AGCOM regulation in particular to check if blocking orders issued by an administrative body, such as AGCOM, comply with constitutional principles, including freedom of expression, economic freedom and proportionality.

Current debate

Summary of recent debates: The debate on the copyright in the age of the Internet seems to be relatively advanced in Italy. The main participants in the debate are the Italian government (Ministry for Heritage and Cultural Activities and Tourism, and the Presidency of the Council of Ministers), the regulator, AGCOM, the industry associations (see below) and consumers associations.

The two main topics that are currently debated are: the application of the rules of the new regulation issued by Italian Communications Regulatory Authority that came into force on March 2014, and the debate on potential reform of copyright at the EU level.

Industry associations: In Italy, there are several associations, industry chambers and collective management organisations of copyright-intensive industries in Italy. The main association is the public organisation "Società Italiana degli Autori ed Editori" (SIAE). In addition some of these associations are gathered in the associations of copyright-intensive industries, "Confindustria Cultura Italia"[50]. They include:

- IMAE (Performing Artists)
- Confindustria Radio Televisioni; CRTV (radio and TV broadcasting)
- Motion Picture Licensing Corporation Italy
- SCF Consorzio Fonografici (phonographic industry)
- Diritti Artisti IPAA (music and audio-visual industry)
- AGIS (Italian Show Business Association)
- ANICA (Italian Film Producer's Association);
- FAPAV (Audio-visual and Multimedia Content Protection Federation);

- UNIVIDEO (Italian Union of Audio-visual Publishers);

These associations carry out a number of activities, including: *i)* collective rights management *ii)* countering copyright infringement (intelligence collection, collaboration with relevant enforcement authorities, and training of public authorities) *iii)* awareness raising campaigns in the area of copyrights, and *iv)* data collection.

Examples of best practices: In 2004, the Italian government promoted the so-called "Charter of Sanremo"- a code of conduct shared by the government and stakeholders to foster the availability of quality content and ensure the respect of digital rights - and to the revision of the "Urbani Decree" on downloading copyright music from peer-to-peer networks. In addition in June 2014, a, a self-regulatory initiative of IAB Italy, FPM and FAPAV was presented with the aim to combat piracy on the internet through blocking ads on illegal platforms.

***Italy country study annex: Italian Broadcasting Industry in the Age of the Internet*[51]**

This annex presents television-related on-line content in Italy[52].

RAI.TV is the public broadcaster multimedia portal offering 15 TV channels and 10 radio channels in live streaming over Interne; 7 RAI Replay channels (streaming of last 7 day broadcast), on top of several thematic areas and programme sites with audio and video podcast of selected current and archive episodes. All content is available for free.

LA7.TV is the web portal of the Italian commercial TV channel La 7 offering for free streaming of all contents broadcast in the last 2 weeks (full episodes, in full screen and HD). Service is available free to PCs, interactive set top boxes and smart TVs.

MTV On Demand is the broadcaster's streaming service offering programs broadcast on MTV channels. The free service also provides Internet exclusive content.

SKY On Demand is the video-on-demand service available to Sky's subscribers equipped with My Sky HD set top box. Contents are available for one week after broadcast and include film, entertainment programs, TV series, documentaries, sport magazines and events, children's programmes, events and concerts.

SKY GO is an app offering over 30 channels of Sky's platform in streaming on second screens and mobile devices (pc, tablet, smartphone). Service allows access to Sky On Demand library of film, TV series, entertainment, documentaries, etc.

SKY Online is a subscription service open to everyone and offering in streaming to internet connected device a selection of Sky's offer. Sky online, by using Internet as the main mean to access content, targets mainly digital native public.

VideoMediaset.IT, allows web users to watch entire episodes of Mediaset's programmes, including the complete version of every newscast. The other programmes offered over the video portal, besides the entertainment programmes, include soap operas, current affairs and sports programmes, which can all be watched in high-quality full-screen mode. VideoMediaset content is also available on the main social networks along with snack-TV content.

Mediaset Rewind, On the main TV screen VideoMediaset is available as the catch-up TV service of the last 7 days, accessible through smartTV sets via internet broadband connection.

Infinity, is an OTT service with a library of 5000 titles - on demand, in HD and original version, with no commercial breaks – caters to multiple reception devices: pc, smartphone, smart TV, tablets and games consoles, including Playstation 3 and the X-box. Infinity is available to all users in fast developing market for the legal offer of OTT content.

Premium Play provides non–linear distribution across different platforms (personal computers, connected TV sets, HD decoders and X-box consoles, Ipad) and features over 2000 programmes (including news, sport, film, drama and entertainment). Every week, 200 new programmes are added afresh. The premium "Download & Play" service enables subscribers to download, save on the device memory and watch Mediaset's on demand content without any internet connection, no additional charges and thus no territorial restrictions.

16mm.it collects and shares videos in a way similar to many other platforms on the web. Users can directly send their videos or respond to contests and calls to action on specific issues. To upload a video, users are asked to abide by 10 rules in the terms of reference. All videos are pre-vetted before going public. At present, 16 mm counts over 10.000 truly UGC videos, roughly 50 daily.

TIMvision is a multimedia video service accessible via Telecom Italia set top box or via ADSL and mobile connected devices (PC, smart TV, smartphone). TIMvision library contains thousands of film titles, sport events accessible on demand or via a dedicated App.

Additional AV offer not related to TV providers legally available over the Net in Italy include (NB: comprehensive not exhaustive list):

- ANICAONDEMAND: film, TV series and TV programs, documentaries, current and archive content;
- POPCORNTV: TV On-Demand service available on Pc/Mac, Apple and Android connected device, connected TV;
- SAMSUNG HUB: music, film, TV, games, eBooks, educational content especially optimised for Samsung devices;
- SONY ENTERTAINMENT NETWORK: allows access to high quality content via connected TVs, videogame consoles and BluRay readers;
- X-BOX LIVE: is the entertainment platform dedicated to Microsoft X-Box and allowing rental or buy of HD film and TV programs;
- APPLE ITUNES STORE: films on demand are accessible via the different iOs devices (iPhone, 'iPad, PC, Apple TV);
- GOOGLE PLAY STORE: mainly films, accessible via several connected devices (PCs, smartphones, tablets based on Android software), or over TV screens via Chromecast USB.

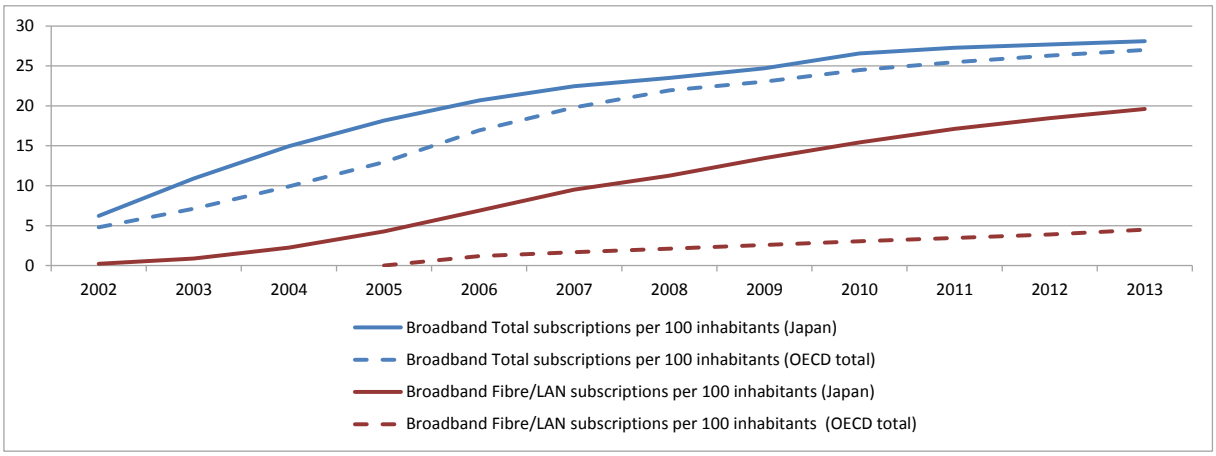
Japan

State of the Internet

In recent years access to broadband networks and the Internet has constantly increased in Japan. In terms of fixed broadband, penetration levels have been growing constantly and are well above the OECD average, reaching maturity. In addition, further deployments of fibre networks have taken place. Overall, deployment of fibre in Japan is at a very advanced stage and places Japan among top countries in the world (see Figure 5.26).

Figure 5.26. Broadband penetration rates in Japan

2002-2013, per 100 inhabitants

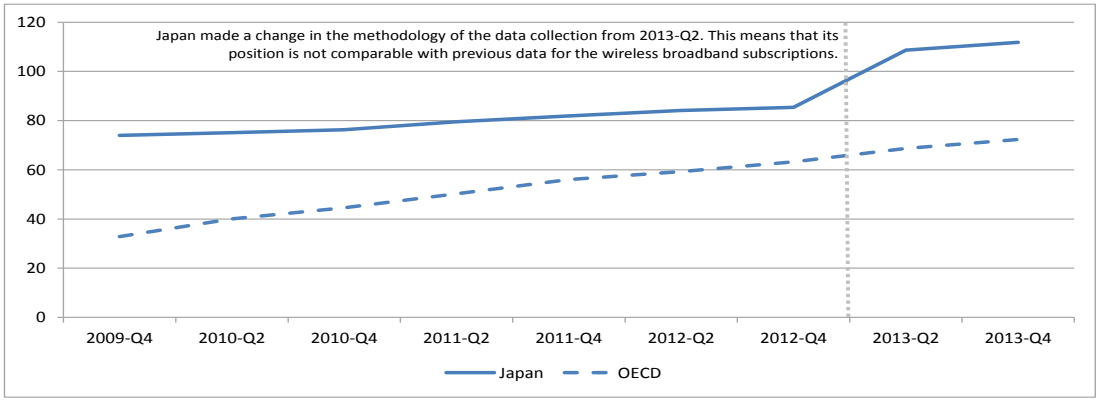


Source: OECD Broadband Portal

Mobile broadband access is opening up new communication possibilities to people as they are away from a fixed-line connection. In 2013 mobile broadband penetration in Japan has grown to 111.79%, meaning that some users have more than one subscription. This is well above the OECD average that has grown to 72.37% (see Figure 5.27).

Figure 5.27. Mobile broadband penetration rates in Japan

2009 Q4 – 2013 Q4, per 100 inhabitants



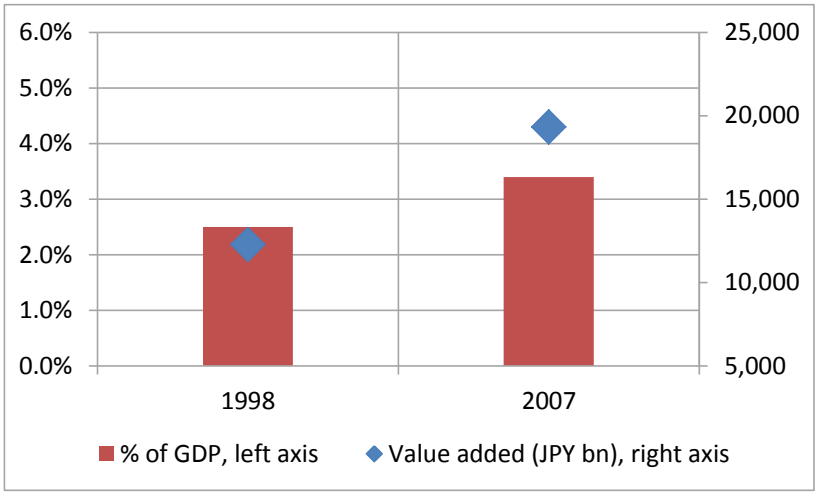
Source: OECD Broadband Portal

Copyright-intensive industries: Market overview

Value added: Over the past years copyright-intensive industries in Japan have demonstrated generally good performance[53]. In 2007 the total contribution calculated for the core copyright-based industries was JPY 17 trillion, accounting for 3.2% of Japan's GDP (Figure 5.28).

Figuere 5.28. Added value of copyright-Intensive industries in Japan

2002-2012, JPY billion (right axis) and % of GDP (left axis)

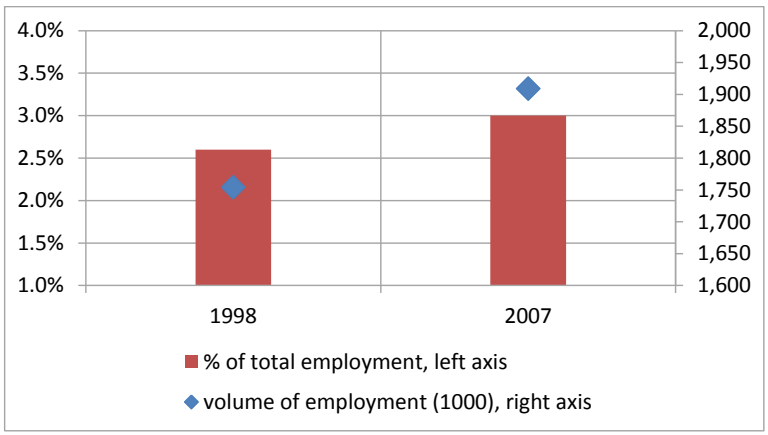


Source: Japan Copyright Institute, 2009

Employment: Between 1998 and 2007, the overall share of people employed in copyright-intensive industries in total industry employees reported an increase of 0.04 percentage point. In 2007 copyright-intensive industries in Japan employed 1.9 million people, which represented 3% of all employed (Figure 5.29).

Figure 5.29. Employment in copyright-intensive industries

volume of employment (left axis) and % of industry employment (right axis)



Source: Japan Copyright Institute, 2009

Copyright-intensive industries and the Internet economy: Japanese industries, including copyright-intensive industries, successfully leverage the technical opportunities offered by the Internet.

The percentage of firms selling online has been rising in Japan for the past years, and the existing forecast suggest that Japan will remain one of the most important e-commerce markets in terms of sales volumes[54].

A unique feature of Japan, compared to other OECD countries, is a very intense usage of mobile broadband. For example, the number of daily mobile users who accessing news and information from their mobile devices in Japan reached 57.6% in 2010, far more than in Europe and in the US[55]. This trend also affects copyright-intensive industries and was paralleled by emergence of numerous start-ups and business models took the advantage of the mobile Internet as the distribution channel. Examples include the emergence of a "cell-phone novel" (books) and a company NAMCO (games) (See Box 6).

Box 5.6. Japanese creative businesses on the Internet: cell-phone novels and Namco

A *cell-phone novel* is a literary work that is originally written on a mobile phone via text messaging. The content is sent directly, chapter by chapter, to users through paid SMS text messages, or through dedicated online subscription site. The Japanese publishing industry has quickly adopted cell-phone books into their product portfolio by offering them on their sites, popularising information about them and by offering prizes to authors of good quality cell-phone novels.

NAMCO is a Japanese corporation that is best known as a former developer of video games for mobile phones. Such games, mostly arcade-style, became large popularity in Japan in the early 2000s. *NAMCO* was very active on that market, introducing several innovative solutions, such as use of mobile phone camera to personalise characters that appear in games. In 2005 *NAMCO* merged with Bandai and continued to operate as Namco Bandai Games.

Legal landscape

Current copyright legislation: In Japan the legal issue of copyrights is regulated by the Copyright Act (No. 48) that was first passed in 1970 and amended several times.

Recent evolution: Copyright law in the Japan have been amended several times in order to meet the technological development, cope with changes in socio-economic landscape and to comply with the evolving international landscape[56]. The most recent amendment was made in 2012 (act No.43). This amendment introduced some additional provisions related to the so-called incidental use of copyrighted material. It also strengthened protection of copyright and related rights in order to increase the efficiency of countering piracy.

Duration of copyright: For cinematographic works, copyright protection generally ends 70 years following the publishing of the work, or 70 years since its creation (if it has not been made public within 70 years following its creation).

For other works, such as sound recordings, performances, books, etc. copyright protection generally ends 50 years following the death of its author, or 50 years since its first publication (if the author is unknown or if the copyright does not belong to an individual person).

Institutional setting: in Japan, the agency in charge of copyright issues is the Agency for Cultural Affairs which belongs to the Japanese Ministry of Education, Sports, Science and Technology (MEXT). Within the Agency most copyright-related tasks are assigned to its dedicated administrative unit, the Japanese Copyright Office (JCO).

Database protection: Original databases that "by reason of the selection or systematic construction of information contained therein, constitute intellectual creations" are protected by copyrights (Article 12-2). There is no legislation solely dedicated to copyright protection (sui generis) in Japan.

Limitations and exceptions: Japanese copyright law sets out a detailed set of cases when a copyrighted work can be used without rights holder authorisation. These include (for example): reproduction for private use, reproduction in libraries, quotations, reproduction in school textbooks, broadcasting and wire diffusion in school education programs, reproduction and public transmission for teaching materials at education institutions, etc[57]. For each case, Japanese legislation provides a detailed set of conditions to clearly define clearly the circumstances for legal, unauthorised use.

Orphan works: For use of orphan works, an application for a compulsory licence can be made to the Agency for Cultural Affairs (ACA). It is possible to issue a compulsory licence for works of a foreign author as long as the work will continue to be exploited within Japan.

Copyright registration: Copyright registration in Japan is voluntary, and can be done at the Agency for Cultural Affairs. It establishes presumption of facts contained in registration for use in court, in cases of copyright infringement or disputes.

Enforcement: Copyright infringement in Japan is generally a civil law matter and the prosecution takes place only upon the legal complaint of the right owner. In addition to a set of civil remedies, the Japanese legislation provides a list of penal sanction for copyright infringement, including imprisonment[58].

Current debate

Recent debates: The public debate on "copyrights in the age of the Internet" seems to be relatively advanced in Japan. An important forum for such debate is the Cultural Council Copyright Subcommittee[59] that works within the Agency for Cultural Affairs. The Subcommittee's members come from the industry, academia, and legal sector. The discussions take place in different thematic working teams, and touch upon such specific subjects as content digitisation, types of contracts or remedies and litigation[60].

Whereas the debates that take place at the Subcommittee are rather specific and focus on detailed topics, the "Copyright White Paper" (Japan Copyright Institute, 2009) published by the Japanese Copyright Research and Information Center presents a general picture of Japanese copyright-intensive industries. It analyses the annual trends of various macroeconomic indices that describe the industry, which in turn positions the copyright industry in the national economy[61].

Industry associations: There are many industry associations in Japan, including in the music, film and television, books and periodicals, visual arts, videogames and broadcasting sectors. The main ones include[62]: *i)* Japanese Society for Rights of Authors, Composers and Publishers (JASRAC), *ii)* Japan Reproduction Rights Center (JRRC), *iii)* The Japan Writers' Association, *iv)* The Japan Art, Photograph and Graphic Design Copyright Organisation (APG-Japan), *v)* Society for the Administration of Remuneration for Video Home Recording (SARVH), *vi)* Society for the Administration of Remuneration for Audio Home Recording, *vii)* Japan Council of Performers' Organisations (GEIDANKYO), and *viii)* Recording Industry Association of Japan (RIAJ).

These associations carry out a number of activities, including*: i)* collective rights management, *ii)* countering copyright infringement (intelligence collection, collaboration with relevant enforcement authorities, training of public authorities), *iii)* awareness raising campaigns in the area of copyrights, and *iv*) data collection.

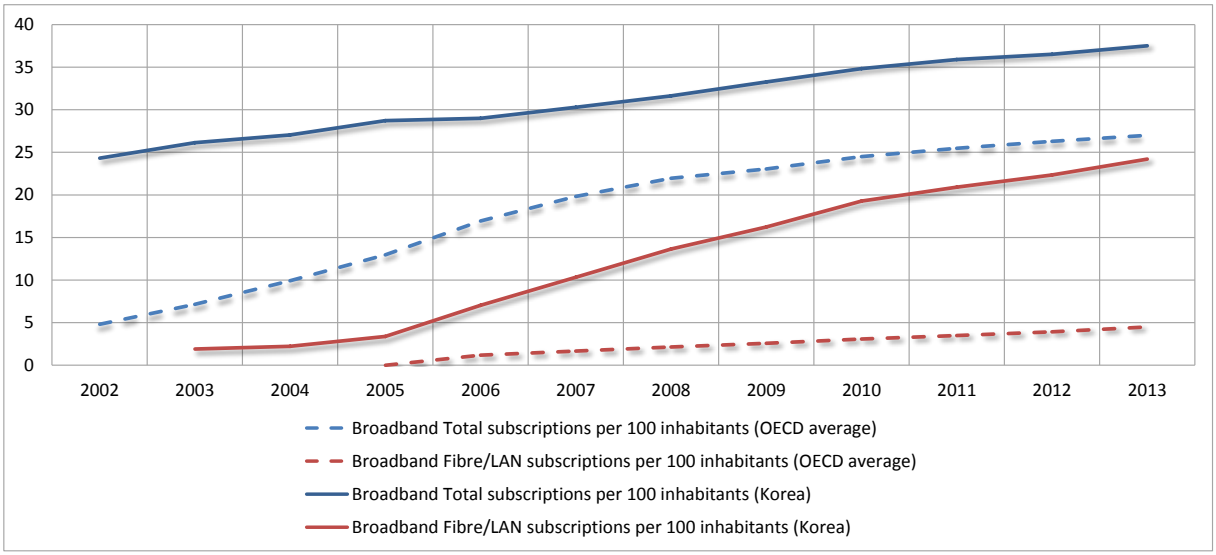
Korea

State of the Internet

In recent years access to broadband networks and the Internet has constantly increased in Korea. In terms of fixed broadband, penetration levels have been growing constantly and are well above the OECD average, reaching maturity. In addition, further deployments of fibre networks have taken place. Overall, deployment of fibre in Korea is at a very advanced stage and is well above the OECD average (see Figure 5.30).

Figure 5.30. Broadband penetration rates in Korea

2002-2013, per 100 inhabitants

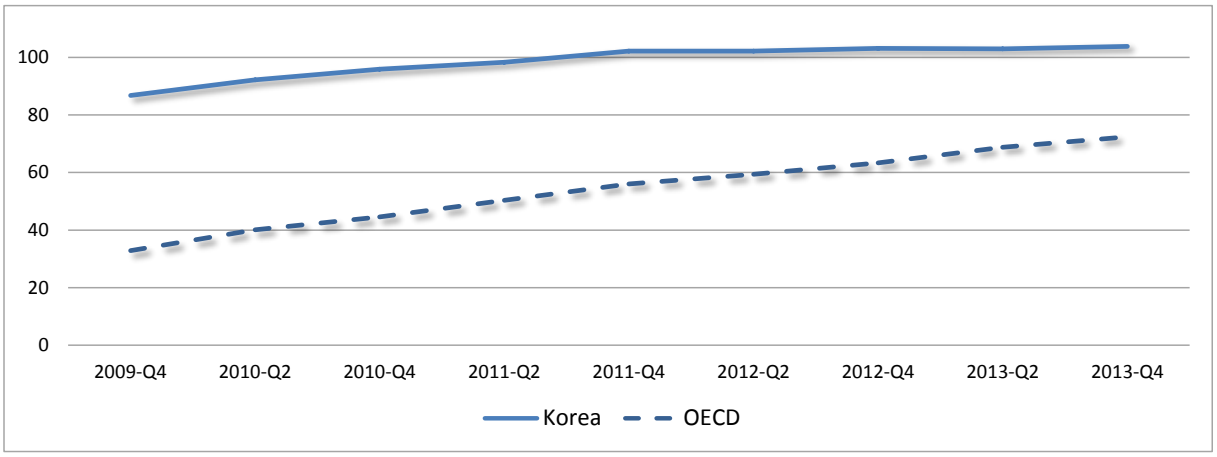


Source: OECD Broadband Portal

More recently there has been rapid and substantial growth in mobile broadband access in Korea, opening up new communication possibilities to people as they are away from a fixed-line connection. Mobile broadband penetration has grown to more than 100 subscriptions per 100 inhabitants in Korea, meaning that some people have more than one subscription. This is way above the OECD average that has grown to 72% (Figure 5.31).

Figure 5.31. Mobile broadband subscriptions in Korea

2009-2013, per 100 inhabitants



Source: OECD Broadband Portal

Copyright-intensive industries: Market overview

Value added: Over the past years copyright-intensive industries in Korea have demonstrated overall better performance than the overall economy of Korea, reporting between 2009 and 2011 average annual growth rates of 13.0%[63].In addition, one should keep in mind that in 2010 there was an economic rebound, after the 2008-2009 global financial crisis downturn. In absolute terms Korean copyright-intensive industries contributed in 2011 KRW 47 246 billion to the Korean GDP (Figure 5.32) accounting for 4.37% of Korea's GDP.

Figure 5.32. Added value of copyright-Intensive industries in Korea

2002-2012, KRW billion (right axis) and % of GDP (left axis)



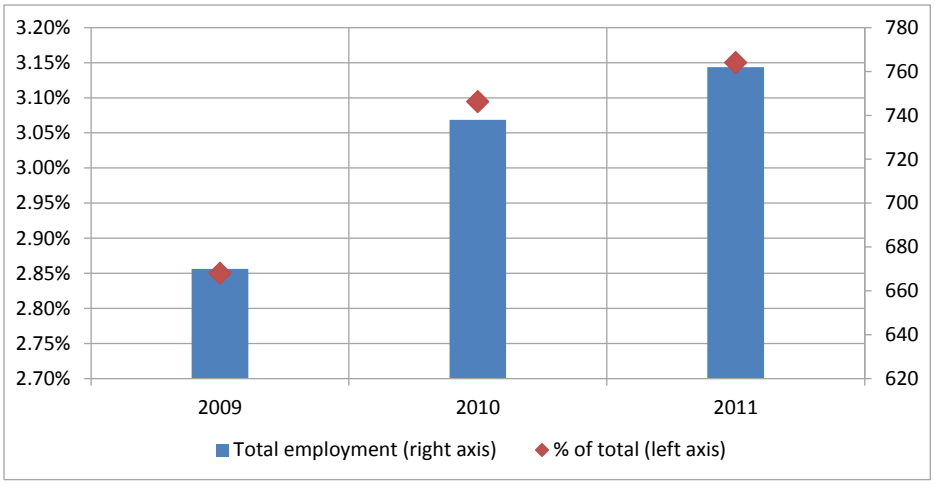
Source: Korea Copyright Commission (2013), The economic contribution of copyright industries in the Republic of Korea

Employment: Between 2009 and 2011, the overall share of people employed in copyright-intensive industries in total industry employees reported a moderate increase. In 2011 the total number of people

employed in copyright-intensive industries represented 3.1% of all employed by Korean industry and amounted to 762 000 employees (Figure 5.33)[64].

Figure 5.33. Employment in copyright-intensive industries

volume of employment (thousands, right axis) and % of industry employment (left axis)



Source: Korea Copyright Commission (2013), The economic contribution of copyright industries in the Republic of Korea

Copyright-intensive industries and the Internet economy: Korean copyright-intensive industries successfully leverage the technical opportunities offered by the Internet. Among many start-ups in copyright-intensive industries in Korea, some have performed remarkably well in taking advantage of the Internet. Examples include Ocon Animation Studio and Iconix Entertainment (media), NCSOFT Corporation (entertainment software) and YG Entertainment (music) (See Box 5.7.).

Box 5.7. Korean creative businesses on the Internet: Iconix, Ocon, NCSOFT, YG.

"Pororo the Little Penguin" (simply known as “Pororo”) is a cartoon series televised on EBS, Korean educational broadcasting company. The program has been aired in more than 130 countries and the revenue in 2009 including license fees was estimated over KRW 258 billion. The cartoon series and their characters were created jointly by ***Iconix Entertainment***, ***Ocon*** and some other companies. *Iconix* Entertainment (established in 2001) and *Ocon* (established in 1996) have produced animations and characters for children and tried to create new markets through character merchandising and other means of secondary uses.

Both *Iconix* and *Ocon* have been grown very rapidly over the past years. In 2011 *Iconix* recorded KRW 34.3 billion sales, an increase by 102.8% from 2009; nearly 70% of the sales were generated by Pororo. *Ocon*’s sales in 2009-2011 grew by 147.2% to KRW 8.9 billion, and Ocon has expanded its business area to theme parks. Despite the fact that the original characters were created decades ago, the recent huge success of these businesses is attributed by technological developments and diversification of distribution channels.

NCSOFT Corporation was founded in 1997 by its current CEO Taek-Jin Kim. Today *NCSOFT* is now one of the world leaders on development and publishing of massively multiplayer online games with paid-in capital of KRW 10 billion. *NCSOFT* gained and established its position with its flagship product "Lineage", the first successful internet-based online game in Korea. Thanks to high penetration rates of fast broadband in Korea, Lineage became popular very quickly, and the company soon launched following games: Lineage 2 and AION. Over the past years *NCSOFT* has established its position in the Asian, North American and European markets.

Since its launch in 1998 Lineage, the first Korean online game, has earned KRW 130 billion annually on average, and the accumulated sales in 2013 amounted to more than KRW 2 trillion. As Lineage has mainly contributed to *NCSOFT*’s growth in sales and size, Taek-Jin Kim appeared on the Forbes’ list of “World’s Billionaires 2011: Record Year For The Richest” (1140th out of 1211 richest people in the world).

YG Entertainment was established in 1996 as original name of Hyun Entertainment by its current representative Hyun-Suk Yang. Today it is one of the largest entertainment companies, home to well-known artists in Korea such as 1TYM, Big Bang and 2NE1. In 2012, it produced PSY's Digital Single "Gangnam Style" and has earned its world-wide recognition and big revenues. "Gangnam Style" was promoted mainly through YouTube, the world's most popular web site for uploading and sharing videos, and it has spread out with a number of video remakes and parodies throughout the world. After the launch of its official music video, uploaded on YouTube in July 2012, Gangnam Style won Guinness World Record for the most liked video in Youtube history in September 2012 and has been viewed over 2 billion times in May 2014.

YG Entertainment has been expanding its business models to various content markets such as concerts, broadcasts, games and advertisements while focusing on its main music business.

Legal landscape

Current copyright legislation: In Korea the legal issue of copyrights is regulated by the Copyright Act that was first passed in 1957 and amended several times.

Recent evolution: The Copyright Act has been amended several times since its enactment in order to reflect the changing environment in technology and copyright-intensive industries as follows:

- Jan. 28, 1957: Enactment of the Copyright Act of Korea.
- Dec. 31, 1986: Introduction of internationally recognised regimes in order to join international conventions such as Universal Copyright Convention.
- Dec. 30, 1989: Amendments following the amendment to the Government Organisation Act.
- Dec. 27, 1990: Amendments following the amendment to the Government Organisation Act

- Mar. 8, 1991: Change of names of relevant Acts following the enactment of the Library Promotion Act
- Mar. 6, 1993: Amendments following the amendment to the Government Organisation Act
- Jan. 7, 1994: Extension of protection term of copyright and neighbouring rights and imposition of more rigorous penalties, etc.
- Mar. 24, 1994: Change of names of relevant Acts following the amendment to the Libraries and Reading Promotion Act
- Dec. 6, 1995: Amendments following the WTO TRIPS, in preparation for the accession to Berne Convention
- Dec. 13, 1997: Introduction of a hearing system for such cases as revocation of copyright collective management services
- Jan. 12, 2000: Introduction of the right of interactive transmission, expansion of the scope of immunity for libraries, and imposition of more rigorous penalties, etc.
- July 10, 2003: Provision of sui generis protection of database producers and clarification of the scope of responsibilities of online service providers
- Oct. 16, 2004: Granting of the right of interactive transmission to performers and phonogram producers
- Oct. 4, 2006: Change of names of relevant Acts following the amendment to the Library Act
- Dec. 28, 2006: Introduction of the concepts of public transmission and digital sound transmission. Introduction of the Copyright Commission. Introduction of orders to collect, discard, delete and suspend illegal reproductions, etc.
- Feb. 29, 2008: Amendment following the amendment to the Government Organisation Act
- Mar. 25, 2009: Granting of immunity to the National Library of Korea (collection of online materials for preservation purposes). Clarification of the scope of specialised recording formats for the exclusive use by visually impaired persons, etc. Introduction of the right to claim remuneration for public performances for performers and phonogram producers.
- Apr. 22, 2009: Integration of the Copyright Act and the Computer Program Protection Act. Establishment of the Korea Copyright Commission. Strengthening of measures to prevent illegal online reproductions, etc.
- July 7, 2009: Change of names of relevant Acts following the amendment to the Act on the Advancement of Newspapers, etc.
- June 30, 2011: Recognition of the Korea-EU Free Trade Agreement
- Dec. 2, 2011: Recognition of the Korea-US Free Trade Agreement
- July 16, 2013: Amendment of Reproduction for Visually Impaired Persons
- Dec. 30, 2013: Amendment of free use of Public Works

Duration of copyright: In general copyright protection in Korea ends 70 years following the death of the last living author. Different rules exist for the term of protection of performances, phonograms and broadcasts: 70 years after the performance, 70 years after the publication, and 50 years after the broadcasting, respectively

Institutional setting: The Ministry of Culture, Sports and Tourism (MCST) is the main institution in charge of copyright-related issues in Korea. Within MCTS there are four dedicated divisions:

- *Copyright Policy Division* Its tasks include: Improving copyright-related laws and institutional systems; Supervising the Korea Copyright Commission; Promoting copyright education and public awareness campaigns; Enhancing copyright protection overseas.

- *Copyright Industry Division* Its tasks include: Laying the foundation for transaction of copyright (registration/authentication); Standardising copyright protection and management technologies; Guiding and supervising copyright management organisations and copyright brokerage organisations; Managing copyright statutory license and copyright donation systems, etc.

- *Copyright Protection Division* (including five regional offices) Its tasks include: Crackdown on distribution of illegal reproductions online/offline; Support for the operation of the Copyright Protection Center; Ordering suspension of online transmission of illegal reproductions or their deletion and imposing fines and taking other appropriate measures; Support for the development and operation of illegal reproduction tracking and management system, etc.

- *Culture and Trade Team* Its tasks include: Planning/coordination of trade policies in the cultural sector including FTAs/ Cooperation with copyright-related international organisations such as the World Intellectual Property Organisation (WIPO), foreign governments and agencies

Other relevant institutions include: the Korean Copyright Commission (KCC), the Presidential Council on Intellectual Property and the Copyright Protection Center.

The *Korean Copyright Commission* (KCC) is a government-funded public entity whose organisation is based on the Copyright Act. According to Article 113, the KCC has the following functions, among others: *i)* conciliation of disputes; *ii)* deliberation on matters concerning the rates and amounts of fees and royalties for the copyright management service providers; *iii)* promotion of fair use of works; *iv)* recommendation for corrective measures; *v)* statutory licensing and copyright registration entrusted by the MCST.

The *Presidential Council on Intellectual Property*, established on July 28, 2011, is in charge of the following policy areas: *i)* formulation, review, evaluation and modifications of national IPR strategies in Korea and the following action plans, *ii)* allocation of financial resources related to IPR policies.

The *Copyright Protection Center* focuses on offline copyright piracy. Although the MCST has the sole administrative power to crack down online and offline piracy, it delegates the offline enforcement power to the Center[65].

Database protection: The Copyright Act provides sui generis protection for non-original databases. The protection of database producers is defined in the Chapter 4 of the Copyright Act. A database producer shall hold the rights to reproduce, distribute, broadcast or interactively transmit of a whole or considerable part of his database.

Limitations and exceptions: In Korean copyright legislation limitations and exceptions are provided in Articles 23 to 36 and 101ter of the Copyright Act[66]. These include the following cases:

- Use in political speeches, judicial proceedings, for the purpose of school education, exam questions, news reporting, articles and editorials.
- Quotations.

- Public performance and broadcasting for non-profit purposes.
- Private use.
- Reproduction in libraries.
- Reproduction for Visually Impaired Person
- Ephemeral Sound or Visual Recordings by Broadcasting Organizations
- Exhibition or Reproduction of Work of Art
- Temporary Reproduction in the Course of Use of Work
- Fair use provisions.
- Use by means of translation.

It should be highlighted, that these limitations and exceptions clauses do not waive author's moral rights.

Orphan works: The Copyright Act has a statutory licensing scheme for orphan works entitled "Use of Works in Which the Owner of Author's Property Rights Is Unknown."

In particular, Article 50 stipulates that if any person, despite considerable efforts made in accordance with the criteria prescribed by the Presidential Decree, cannot identify the owner of author's property rights in a work made public (except foreigners' works) or his residence and therefore is unable to obtain the authorization of the author for its use, may use the work by obtaining approval from the MCST as prescribed by the Presidential Decree, and depositing remuneration according to the criteria as determined by the MCST. The authority of the MCST in respect of statutory licensing is delegated to the KCC.

The simplified statutory licensing scheme was introduced in April, 2012 and enforced in October 2012. Its main purpose was to facilitate the use of orphan works. The amendment to the Presidential Decree provides that the certain efforts by the MCST may replace the considerable efforts on the part of the intended user.

Copyright registration: Copyright registration is not mandatory in Korea, although it provides certain procedural benefits in case of a dispute or infringement. Copyright can be registered on-line at the Korea Copyright Commission and costs KRW 23.600 (USD 23) for most works except for software, where the on-line registration costs KRW 53.600 (USD 52). Off-line registration is possible and is on average KRW 10.000 (USD 10) more expensive.

Over the past five years the total number grew steadily at 6.75% average annual growth rate, from 24 225 registrations in 2009 to 31 462 registrations in 2013 (See Figure 5.34). Among all the registered works in 2013, computer programs have the highest share of 43.5% followed by artistic works (25%) and literary works (11%). For more detailed statistics on Korean copyright registrations see Table 5.5.

Figure 5.34. Copyright registrations in Korea (2009-2013)

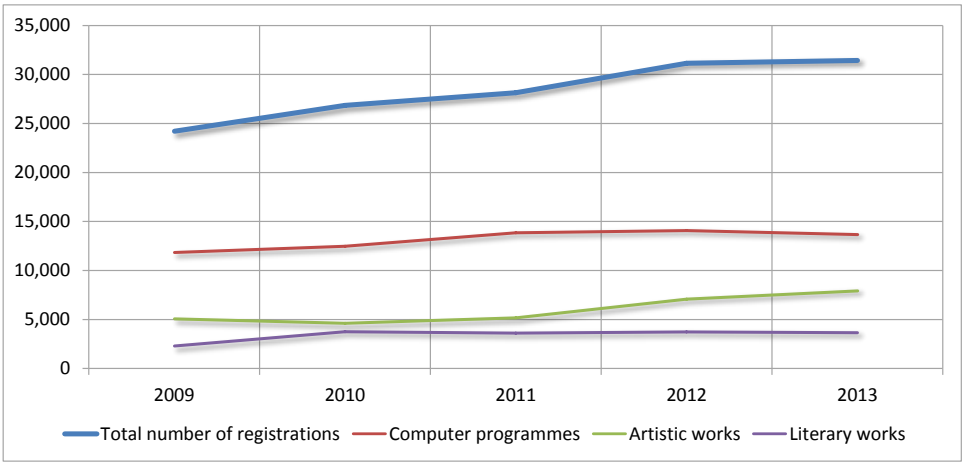


Table 5.5. Copyright registrations in Korea

2009-2013; by subject matters and by right-holders

Type of work		**2009**	**2010**	**2011**	**2012**	**2013**
Works	Literary	2,309	3,776	3,612	3,742	3,658
	Musical	987	1,387	1261	1,446	1,430
	Theatrical	27	25	20	24	58
	Artistic	5,075	4,632	5,179	7,092	7,938
	Architectural	117	84	246	57	131
	Photographic	378	447	281	507	447
	Cinematographic	238	676	374	505	626
	Diagrammatic	400	742	567	528	545
	Compilation	1,082	1,330	1,562	1,823	1,981
	Derivative	279	451	907	645	572
	Computer program	11,856	12,483	13,858	14,101	13,690
	Others	-	-	-	-	-
Performance		93	24	3	30	1
Photogram		1,366	705	230	565	323
Database		18	86	54	101	62
Type of right holder		**2009**	**2010**	**2011**	**2012**	**2013**
Individuals		6,759	9,904	10,516	11,622	12,220
Legal persons		17,187	16,201	16,678	16,334	15,843
Others		279	743	960	3,210	3,399
Total		***24,225***	***26,848***	***28,154***	***31,166***	***31,462***

Enforcement: The main agencies in charge of copyright enforcement in Korea are the Prosecutor's Office and the National Police. The law on special police power with the amendments in 2003 and 2008 gave a mandate to the MCST to counter online copyright piracy. Furthermore, customs authorities have a special role in combating pirated trade, according to Korean Customs Act[67].

Current debate

Summary of recent debates: The public debate on "copyrights in the age of the Internet" seems to be relatively advanced in Korea. It has been taking place for several years, and gathered numerous experts from the government, academia, think tanks, industry and civil society. Currently the following general themes are being debated:

- Implementation of the Free Trade Agreements between Korea and the USA and between Korea and the EU**.**
- Legal issues related to the so-called smart environment.
- Use of copyrighted works that originate from government agencies and public institutions.
- Criminal components of copyright violation.

Industry associations: There are 12 main industry associations in Korea. All of them are government-authorized organizations that manage copyrights in areas of music, literary, media (broadcasting and press), cinematographic and public works. These associations are:

- *Music industry*: Korea Music Copyright Association, Recording Industry Association of Korea, Federation of Korean Music Performers
- *Literary works*: Korea Reproduction and Transmission Rights Association, Korean Society of Authors, Korean TV and Radio Writers Association, Korea Scenario Writers' Association
- *Media*: Korea Broadcasting Performers' Association, Korea Press Foundation
- *Cinematographic industry*: Movie Distributors Association of Korea, Korean Film Producers Association
- *Public work*: Korea Culture Information Service Agency

For more details on these associations and their activities see the Appendix.

Industry best practices: Three relevant examples can be mentioned in the context of industry best practices in Korea: the graduate response scheme by Korean Internet service providers (ISPs), Korea Online Newspaper Association and its "Usage Rules for Online Content" and the "Guide on Cost Estimation for Software Project" by Korea Software Industry Association.

Korea enjoys one of the highest rates of high-speed Internet penetration in the world, which is clearly beneficial for Internet users and for many parts of the industry. Unfortunately, it is also an partial enabler for online piracy. This triggers counter-actions of Korean government (see enforcement) and pushes the industry to develop a set of best-practices. In 2009 a graduated response system was introduced targeting heavy uploaders who repeatedly make illegal copies available on the Internet. According to this system, the MCST issues orders to Korean ISPs to warn the on-line pirates and/or delete illegal copies. After the third warning, the MCST after deliberation by the KCC orders the ISPs to suspend their access for not more than 6 months.

The Korea Online Newspaper Association (KONA) is a non-profit organization with the members of the major online news companies in Korea that endeavours to protect its members' rights, in particular the

rights related to the copyright law. In 2005 KONA published the "Usage Rules for Digital News" and in 2008 "Usage Rules for Online Content".

The "Usage Rules for Digital News" has been revised twice in order to reflect the amendments to the copyright law and to the developments of the online news market since the first publication in 2005. They provide information for readers on how to legally use digital news. They recall that digital news is protected by the copyright law and readers should use digital news according to the terms and conditions applied by the KONA. They address such issues as "copy and paste", hyperlinks, Rich Site Summary services, online communities, etc.

The "Usage Rules for Online Content" outlines rights and obligations for subscribers to the online news contracts. They deal with various issues ranging from the scope of use and modification of online content to the expiration of use and copyright protection measures.

The Korea Software Industry Association (KOSA), consists of 1,200 IT and software companies, and promotes a fair trading ecosystem. It proposes a proper cost estimation services for software projects summarized in its "Guide on Cost Estimation for Software Project". The Guide was made for software companies who are interested in participating in software development projects conducted by government agencies and public institutions in a effort to enhance competitiveness of domestic software industries. It proposes the cost estimation methods at the stages of project planning, software development and system maintenance and management. Explanations and comments are provided with illustrations and hypothetical examples.

Korea country study annex: Collective Management Organisations in Korea

Korea Music Copyright Association

The Korea Music Copyright Association (KOMCA) was established in 1964 to protect the rights and interests of music copyright holders. It was authorized to provide copyright collective management services on February 23, 1988 and manages the right of public performance, the right of broadcasting, the right of interactive transmission and the right of reproduction of musical works. The KOMCA collected copyright royalties worth KRW 108.7 billion in 2011 and KRW 111.5 billion in 2012, despite global economic downturn and extreme industrial slowdown in Korea. The numbers of its members and collective management agreement signatories broke through the 15,000 mark and the number of works under its collective management amounts to as many as 1 725 733, indicating its strong position as a music copyright collective management organisation.

The KOMCA is striving to develop various new means of royalty collection and to expand royalty rates on a continual basis. As indicated by the new establishment of films' performance royalties, the organization continues to achieve not only quantitative growth, but also substantive qualitative growth. In the case of broadcasting royalties for terrestrial broadcasting stations, the royalty rate has been expanded to 1.2%, compared to the past, while it has been decided that revenues from endorsement would be included in the scope of revenues. It has also decided to settle VOD and webcasting service royalties under separate regulations, doing its utmost to protect the rights of its members. The KOMCA also prepares to begin collecting royalties for the use of music by UCCs, Blogs and Cafes on the Internet.

In addition, on December 4, 2012, during training sessions for representatives from countries in Asia and Latin America, as well as from Myanmar, Bhutan, Laos, Sri Lanka, Bangladesh, Mongolia, Nepal, India, Cambodia, Kenya, and Senegal, a project implemented in partnership with the World Intellectual Property Organization (WIPO).

Recording Industry Association of Korea

The Recording Industry Association of Korea (RIAK) was established in 2001 to protect the rights and interests of phonogram producers. It was authorized to provide copyright collective management services by the then Minister of Culture and Tourism on March 17, 2003 and has provided collective management of 260,000 songs owned by 2 217 members.

In addition to collective management of neighbouring rights for phonogram producers, the RIAK collects and distributes remuneration for 1.92 million songs of 3,000 phonogram producers, as it was designated as an organization to collect broadcasting remuneration for commercial phonogram in 2001, as an organisation to collect remuneration for digital audio transmission of phonogram in 2008 and as an organization to receive remuneration for performances for commercial phonogram in 2009 by the Minister of Culture, Sports and Tourism. Furthermore, the RIAK is proactively involved in copyright protection activities and crackdown on illegal audio sources.

Meanwhile, in May 2011, the RIAK was transferred with the Korea Music Data Center project from the Korea Creative Content Agency (KOCCA). The project is aimed at promoting citizens' right to culture by collecting and classifying data on Korean music in a systematic manner and building online and offline data centre. Permanent and special exhibition halls and a data centre were opened on the first floor and the first basement floor in the Olympic Hall. In 2011, the "Korean Wave Soaring into the World" was staged and Nam In-su Special Exhibition was featured in 2012.

Federation of Korean Music Performers

The Federation of Korean Music Performers (FKMP) was established in June 1988 to protect and manage neighbouring rights of performers. It was authorised to provide copyright collective management services on November 14, 2000 by the then Minister of Culture and Tourism and has managed neighbouring rights of performers since then.

In addition to collective management services, the FKMP collects and distributes remuneration for music performers as it was designated as an organisation to collect remuneration for broadcasting of phonograms for sale in October 1988, an organisation to collect remuneration for digital sound transmission in 2008, and an organisation to collect remuneration for public performances of phonograms for sale in 2009.

As of December 31, 2012, the FKMP had 6,307 performers as its individual members and six special members, including the Korea Singers' Association, the Singers' Committee of the Korea Entertainers Association, the Korea Recording Musician Association, the Korean Traditional Music Association, the Music Association of Korea and the Korea Musicians Association. Its major activities include collection and distribution of copyright royalties and various remunerations, protection of rights and interests of music performers and improvement of their status, protection of rights of Korean music performers in foreign countries and publicity campaigns on neighbouring rights.

Korea Reproduction and Transmission Rights Association

The Korea Reproduction and Transmission Rights Association (KRTRA) was established on July 1, 2000 to protect the rights of copyright holders and publishers and promote the fair use of copyrighted works through collective management of rights on reprography and transmission of literary works on behalf of rights holders. The KRTRA was authorised as a copyright collective management organisation on November 14, 2000 and has copyright collective management organisations and related organisations as its members. The KRTRA has distributed full-amounts of collected fees to right holders since 2009, and the KRTRA carries out crackdown activities throughout the year to promote the legitimate use of works and

eliminate illegal reproductions. For example, in collaboration with the MCST and the Copyright Protection Center, it performs joint crackdowns on photocopying businesses in university areas during new school semesters (March and September) to protect rights holders.

In addition to its main responsibility of providing copyright collective management services, the KRTRA has been designated as an organisation to collect remuneration from libraries (October 17, 2003) pursuant to Article 31 of the Copyright Act and remuneration for school education purposes (March 13, 2008) pursuant to Article 25 of the Copyright Act. Since then, it has collected and distributed remunerations from those organisations.

As standards on remuneration for reproduction, performance, etc. for school education purposes pursuant to Paragraph 2 of Article 25 of the Copyright Act was notified (the Minister of Culture, Sports and Tourism Notification No.2011-017, April 28, 2011), in 2011, the KRTRA organised workshops and produced guidebooks to provide information on the remuneration system aimed to collect and distribute remunerations on the use of copyrighted works for school education in schools such as universities, making concerted efforts to help the remuneration system for school education purposes to take root at an early date.

Besides, the Association also made multifaceted efforts to locate copyright holders to facilitate the distribution of collected remunerations. In the case of remunerations on textbooks, in particular, it has undertaken a variety of projects, including online and offline advertising campaigns, production of database and catalogue for images used in textbooks to found out the right holders.

Korean Society of Authors

The Korean Society of Authors (KOSA) was officially launched on July 28, 1988 after receiving approval by the Ministry of Culture and Public Information (currently, the MCST) for corporation establishment on July 13, 1988.

KOSA was authorised to provide copyright collective management services on March 16, 1989. Since then, it has managed copyrights of literary, dramatic, artistic and photographic works. In addition to copyright collective management, the main activities of KOSA include copyright infringement investigation and pursuit of legal remedies and public awareness activities by holding seminars and publishing publications. As of December 2012, KOSA had 3,462 members (including 82 groups).

In 2012, the KOSA signed an MOU with the Korea Writers' Association (KWA) on April 18 to promote the rights of wider circles of copyright holders, while pursuing mutual cooperation with various organisations, including the Korea Novelists Association and the Korea Children's Writers Association, to provide support for defending the rights and interests of writers.

As the free-of-charge e-Book publication project supported by KOSA starting from 2011 was well-received among its members, the KOSA published 200 works in e-book format by 2012. It is also preparing for a project to provide support for publication of paper books for its members.

Meanwhile, KOSA members visited Japan to sign a mutual management agreement to distribute Korean literary works overseas and distribute overseas works in Korea and held discussions on the mutual management agreement with the Japan Writers' Association.

Korean TV and Radio Writers Association

The Korean TV & Radio Writers Association (KTRWA) was established in 1962 to promote the rights and interests of TV broadcast writers who work in general fields of the broadcasting industry,

including TV dramas, documentaries, entertainment, radio and translation, and contribute to the development of national culture through the growth of broadcasting literature and exchanges. It was authorised to provide copyright collective management services on September 20, 1988.

Korea Scenario Writers' Association

The Korean Scenario Writers' Association (KSWA) was established to protect the rights and interests of scenario writers, offer collective manage services such as licensing and management of scenario works on behalf of scenario writers, and contribute to the development of scenarios. It was authorised to provide copyright collective management services on September 12, 2001 when its name was the Cinematographic Scenario Writers Association. As it was renamed as the KSWA in November 2002, it launched copyright collective management and brokerage services in full swing.

The KSWA is engaged in various activities associated with its members and industry, including activities to protect the copyright of its members, research into scenarios, prize awards to meritorious members, and projects to promote the welfare of its members. In 2011, it hosted the Korea Scenario Contest with prize money worth KRW 100 million, contributing to invigoration of the film industry, including copyright projects.

The KSWA also has trained a number of scenario writers through its affiliated organisation, the "Scenario Writers Training Institute" established in 1992. In 2011, scenario writers of the institute's 37th and 38th class were trained in the training institute. A scenario contest and prize-awarding ceremony were also held at the training institute. And, KSWA recommended members for the Korean Film Council, and sectorial subcommittees of the Korea Media Rating Agency.

Korea Broadcasting Performers' Association

The Korea Broadcasting Performers' Association (KPBA) was established in August 2001 to protect neighbouring rights of broadcasting performers, including TV actors, voice actors, comedians and MCs. It was authorised by the then Ministry of Culture and Tourism to provide copyright collective management services on February 20, 2002.

The KBPA signed a special agreement on the use of neighbouring rights of its members with terrestrial and cable TV broadcasting companies pursuant to Paragraph 3 of Article 100 of the Copyright Act. Based on the agreement, it collects neighbouring right license fees that arise when broadcasting organisations reproduce, distribute, broadcast or interactive transmit broadcast programs where its members make an appearance from them and distributes royalties to its members.

As of 2012, the KBPA has signed MOUs with terrestrial broadcasting companies such as KBS, MBC, SBS, EBS, OBS and nine regional private broadcasting companies, as well as 47 programme providers (PP) for cable TV programs, to protect the rights of its members.

Furthermore, it understands that the level of protection of performers' rights stipulated in Article 100 (3) of the Copyright Act lags behind compared with protection cases of developed countries, posing an obstacle to protection and promotion of the rights of performers. Hence, it has been vigorously engaged in policy activities to address this issue. Apart from such efforts, the KBPA is engaged in a variety of other activities to protect the rights of its members in practical terms, while expanding welfare programs for its members. It is also striving to sign a special agreement with newly launched general-programming cable TV channels.

Korea Press Foundation

In February 2010, the Korea Press Foundation (KPF, formerly the Korea Press Center in 1962 with two other organisations) was launched with the consolidation of the former Korea Press Foundation, the Newspaper Circulation Institute and the Newspaper Promotion Commission.

The KPF was authorised to provide copyright collective management services on June 7, 2006. As of the end of 2011, it manages the copyright of news works of 69 media of 59 media companies. Starting from 2011, 13 media from seven leading media companies such as Chosun, JoongAng, and DongA have joined the KPF's services in the form of agency or brokerage services, so the number of media companies under the management of the KPF amounts to 82 media from 66 media companies.

In 2012, the KPF organised a contest for a campaign against infringement of news copyright (UCC, newspaper advertising, slogan categories) to raise awareness of copyright protection. It also published research reports on the "digital news contents market and copyright" and "a study on news copyright-related systems and legal precedents in foreign countries." It also identified practices of using news-related copyrighted works and established a permanent monitoring system to prevent copyright infringement, while launching public awareness campaigns to protect news copyright via various media such as newspapers, radio and the Internet. It posted news copyright protection advertising on more than 100 occasions in the newspapers of its member companies. The KPF has also developed educational video materials on protection of news copyright for the general public and youth, respectively, and plans to utilise them for public awareness campaigns on news copyright this year.

In order to facilitate paid use of news, the KPF has provided integrated new package products for central government agencies, doubling the scale of paid use of news by state organisations, compared to the previous year. It is endeavouring to expand the supply of the paid package products to local governments and public organisations.

As a result of such efforts, the KPF's news copyright collective management project has been selected by the World Association of Newspapers and News Publishers (WAN-IFRA), which is the world's largest press organisation in which the world's newspaper publishers and editors participate, as an exemplary business model in recognition of its contribution to boosting market value of news and its success story was presented globally.

Movie Distributors Association of Korea

The Movie Distributors Association of Korea (MDAK) was established in 1999 to promote seamless and fair use of cinematographic works and establish their distribution order. It was authorised to provide copyright collective management services on November 9, 2005.

The MDAK manages the right of public performance of cinematographic works and mainly grants licenses to DVD theatres nationwide for performance of cinematographic works.

The MDAK's main activities include collective management of cinematographic works, collection and distribution of copyright royalties, crackdown on illegal cinematographic reproductions for copyright protection, protection of the rights and interests of its members, information management to facilitate the use of cinematographic works, suggestions for related bills and public awareness campaigns. In 2010, it established subcommittees to promote the development of the film distribution and home entertainment industries and pursued various solutions to address problems in respective industries.

In 2012, for an example of the activities, the MDAK carried out guidance and public awareness activities to eliminate the use of illegal cinematographic works and prohibit unauthorised use in libraries,

accommodation establishments and bath houses. It also raised public awareness of copyright protection for cinematographic works. In the same year, the MDAK had 54 companies as its members, including regular members and special members. It also has six staff members, consisting of directors including the president and staffs at the secretariat that deals with management of copyright of cinematographic works, strategic planning and collection of royalties.

Korean Film Producers Association

The Korean Film Producers Association (KFPA) was established in February 1994 as a consultative body for currently active film producers in Korea. It joined the International Federation of Film Producers Associations (FIAPF) in 2001 and was authorised to provide copyright collective management services by Ministry of Culture and Tourism in 2005.

As an association of film producers, the KFPA is engaged in a wide range of projects involving Korea's film industry, including prevention of illegal reproduction and copyright protection, facilitation of the secondary market in the film industry, labour-management negotiations in the film industry and development of a standard contract form, and pursuit of rationalisation measures of the industrial structure, thereby contributing to both qualitative and quantitative growth of the film industry in Korea. As of the end of 2011, the KFPA had 65 companies as its members.

Korea Culture Information Service Agency

Korea Culture Information Service Agency (KCISA) was established in 2002 mainly to provide cultural information management services.

With the private sector’s rising demand for works owned by public institutions, the Korea Database Agency (KDB) has been authorised to provide copyright collective management services to accelerate their utilisation. The KCISA has been in charge of the services since the KDB transferred them to the KCISA in 2013.

Unlike private collective copyright management organisations that mainly engage in licenses of copyrighted works and collection of royalties on behalf of their members, the KCISA is a copyright collective management organisation in the public sector, so it focuses on distributing free copyrighted works based on the intentions of public institutions to promote the use of public copyrighted works by the private sector.

In addition to collective management of public copyright, the KCISA also strived to promote the use of public copyrighted works by the private sector. As part of this effort, in February 2012, it introduced the Korea Open Government License (KOGL) system, which is a system to permit the free use of public copyrighted works, and distribution is fully under way.

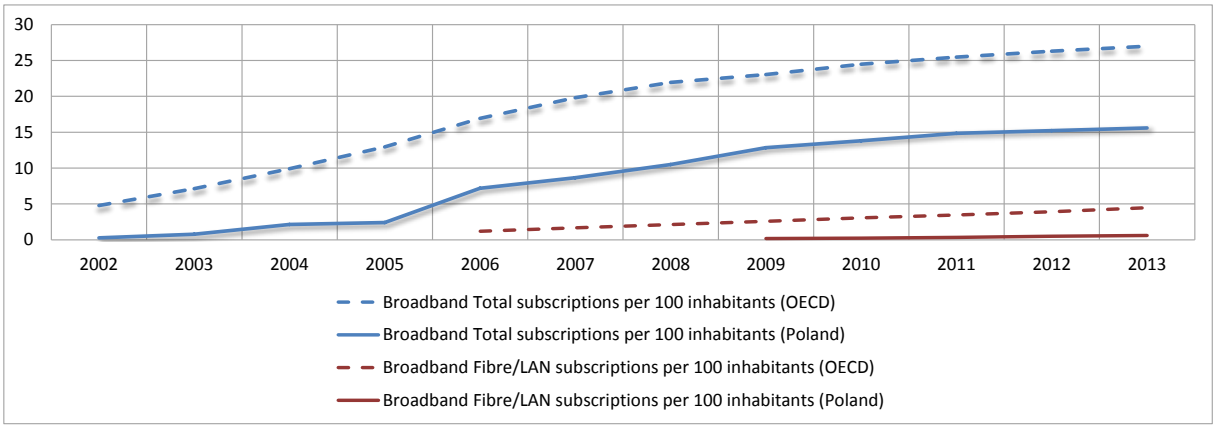
Poland

State of the Internet

In recent years access to broadband networks and the Internet has steadily increased in Poland. In addition, further deployments of fibre networks have taken place. Overall, however, broadband penetration rates and the deployment of fibre in Poland are still at an early stage in Poland and below the OECD averages (see Figure 5.35).

Figure 5.35. Broadband penetration rates in Poland

2002-2013, per 100 inhabitants

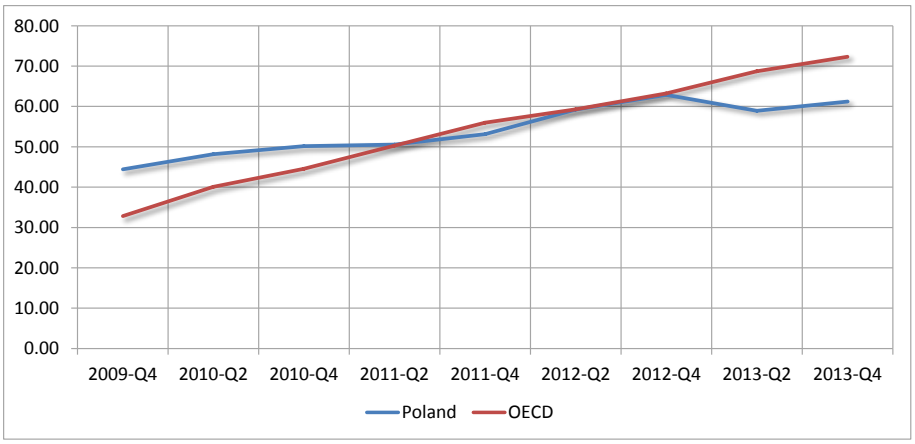


Source: OECD Broadband Portal

More recently there has been rapid and substantial growth in mobile broadband access in Poland, opening up new communication possibilities to people as they are away from a fixed-line connection. Mobile broadband penetration has grown to over 60% in Poland, which is at a comparable level with the OECD average that has grown to more than 70% (Figure 5.36).

Figure 5.36. Mobile broadband subscriptions in Poland

2009-2013, per 100 inhabitants



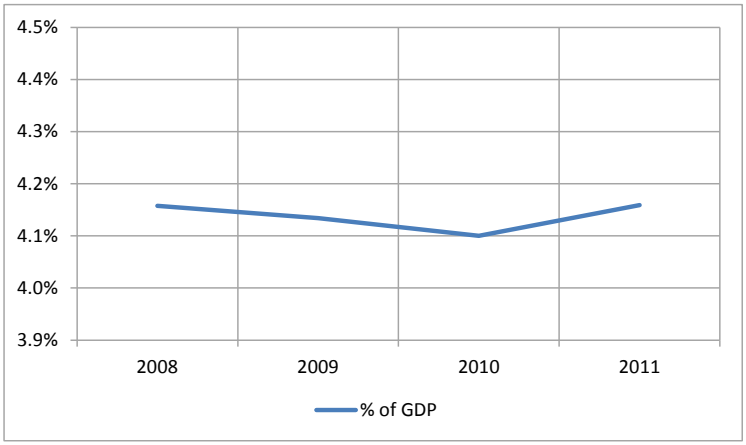
Source: OECD Broadband Portal

Copyright-intensive industries: Market overview

Value added: Over the past years copyright-intensive industries in Poland have demonstrated overall stable performance[68]. Between 2008 and 2011 the total share of the copyright-based industries within the Polish economy remained virtually stable, accounting for 4.17% of Poland's GDP in 2011 (Figure 5.37).

Figure 5.37. Added value of copyright-Intensive industries in Poland

2002-2012, % of GDP (left axis)

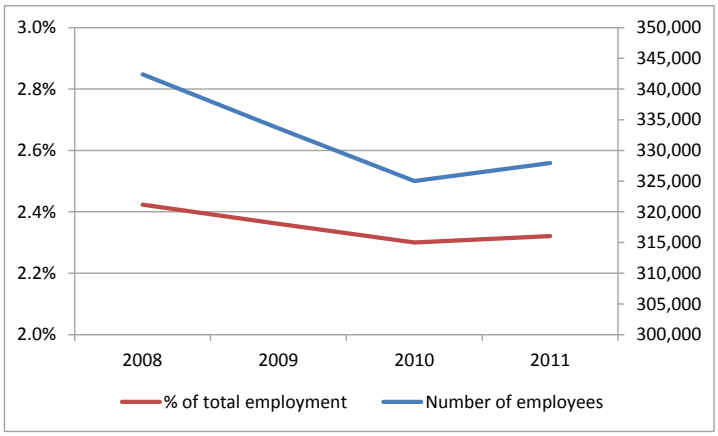


Source: Eurostat SBS database and EPO-OHIM (2013).

Employment: The total number of people employed in copyright-intensive industries represented 2.3% of all employed by Polish industry. Between 2008 and 2011, the overall share of people employed in copyright-intensive industries in total industry employees remained virtually stable. The total employment reported some fluctuations over that period. In 2011 it amounted to 315,000, which was slightly less than the volume of employment in these industries in 2008 (Figure 5.37).

Figure 5.38. Employment in copyright-intensive industries

volume of employment (right axis) and % of total employment (left axis)



Source: Eurostat SBS database and EPO-OHIM (2013).

Copyright-intensive industries and the Internet economy: In Poland, there are several services that offer legitimate access to copyrighted content in the Internet. Given that Polish language is mostly spoken

in Poland only, hence content in Polish language is like to be demanded mostly in Poland, the activity of these services should be analysed in the context of the type of provided content: whether it is mostly foreign or domestic (Polish) content. Concerning foreign content, the main problem faced by most local, Polish services are the large costs of access to legitimate foreign content. Given the relatively moderate size of Polish market, this significantly increases the per-user costs, and it turn in favours global players such as iTunes of Spotify that are able to get access to content at a much more favourable per-user rate.

In the on-line music market in Poland main active services include: Muzo[69], Muzodajnia,[70] iplay[71] and Empik[72]. In addition, some companies offer single music files or ringtones online, or rely on music in another way (e.g. as suppliers of technological solutions relating to music, especially in the telecommunications sector). These services include Soho.pl[73], Polish Sound[74], NuPlays[75], Mobila[76], Papla[77], PlaytheMusic[78], Mood[79], Wind Mobile[80]. It should be mentioned that on the music market, some services, such as Sound Park[81] or MegaTotal.pl[82], specialise only in music that is not offered by "big labels". Sound Park addresses its offer to individual artists and independent labels. Megatotal.pl is the first Polish platform of music-related crowd funding and an online store[83] offering mostly music that was financed through the platform[84].

Most major music streaming service providers are now also present in the Polish market: iTunes, Deezer, WiMP, Spotify, YouTube and (since June 2014) Google Play Music. Proceeds from digital music sales rose by 45% in 2013, reaching 33,3 mln zlotys, which amounts to 15% of the total music market.[85]

Concerning Polish video-on-demand (VOD) market, there are several active legitimate services, that can be divided into four main categories:

- Services related to a TV station or a telecom company (Ipla.pl, TVP.pl, TVNplayer.pl, Orange.pl/vod).
- Services related to web portals (Vod.pl, Kinoplex.pl).
- Services related to movie distributors (Cineman.pl, Strefavod.pl).
- Independent services (Iplex.pl, Vodeon.pl).

Legal landscape

Current copyright legislation: In Poland the legal issue of copyrights is regulated by the Act of 4 February 1994 on copyright and related rights[86], by the Act of 27 July 2001 on databases protection[87] and by several specific regulations of the Ministry of Culture and National Heritage (MKiDN). In shaping its internal law Poland is obliged to take into account relevant Directives of the European Parliament and of the Council in its legislation, such as: the Directive on the term of protection of copyright and certain related rights (2006/116/EC), the directive on the harmonisation of certain aspects of copyright and related rights in the information society (Copyright Directive, 2001/29/EC) and the directive on the enforcement of intellectual property rights (Enforcement Directive, 2004/48/EC).

Additionally the important issue of Internet intermediary liability is regulated in the Act of 18 July 2002 on Providing Services by Electronic Means (articles 12-15), which transposes into the Polish legal system the directive on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (eCommerce Directive, 2000/31/EC)

Recent evolution: Over the past 20 years there have been several amendments of the Copyright Act, mostly implementing EU Directives. The main ones, introduced in 2011 focused on improvement of

activities of collective rights management associations (transparency improvement) and functioning of the Copyright Commission – the arbitrary body whose main activity is to set tariffs used by collective management organisations.

Duration of copyright: In Poland copyright protection generally ends 70 years following the death of the last living author.

Institutional setting: Polish Ministry of Culture and National Heritage (MKiDN) is the main actor in the area of legislative works and awareness building campaigns in the area of copyright and related rights.

In addition, in 2000 the horizontal, Intergovernmental Team for Counteracting Infringements of Copyright and Related Rights was established, to coordinate efforts related to enforcement of various IPRs in Poland. The Team, on the basis of the analysis of state of the art in the domain of enforcement of copyright and related rights, is in course of preparing the new "Programme for the protection of copyright and related rights" which is to be adopted in the second part of 2014 and which will be in force for the tenure of 3 years.

The Ministry of Administration and Digitisation, set up in 2011, is responsible for the legal framework concerning information society services and hence is involved in developing copyright policy in the digital domain.

Furthermore, some other Ministries and government agencies are active in order to ensure effective functioning of the copyright protection, especially in the area of enforcement. These include:

- Ministry of Justice, The Office of the General Prosecutor, National School of the Judiciary and Public Prosecution: in the area of improvement of the efficiency of prosecutions and proceedings concerning copyright protection.

- Ministry of Internal Affairs and Ministry of Finance (Customs Service): in relation to limiting infringements of copyright and related rights, and other intellectual property rights in the markets.

- Patent Office, Minister of Science and Higher Education, Minister of National Education: in relation to conducting educational activities towards the development of social and legal awareness in the area of copyright and related rights and their role in the development of economy and knowledge based society

- Ministry of Internal Affairs, Ministry of Finance, The Office of the General Prosecutor, Minister of Justice, Minister of Foreign Affairs: in relation to enhancing international cooperation in the relevant areas of protection of copyright and related rights.

Database protection: If a database meets the originality criteria, it is treated as a literary work and is protected under the law of copyright. In addition, all databases in the Poland are protected by Act of 27 July 2001 on databases protection, which followed the directive 96/9/EC of the European Parliament and of the Council, of 11 March 1996 on the legal protection of databases.

Limitations and exceptions: Private personal use (*dozwolony użytek osobisty*) includes creation of backup or reserve copies, or creation of copies for sharing them with family and close friends.

Poland has implemented wide spectrum of limitations and exceptions that are in conformity with the international copyright law and European directives. These include: limitations and exceptions for libraries and archives, educational institutions, access to and processing of the information by press and media,

citation, incidental reproduction of works, public exhibition, limitations and exceptions for the benefit of disabled persons.

Orphan works: This area in is not explicitly regulated yet. Projects of new legislation that will comply with the directive of the European Parliament and of the Council on certain permitted uses of orphan works (2012/28/EU) are currently debated.

Copyright registration: Copyright cannot be registered in Poland. There are works under way on introducing the registration procedure for orphan works in conformity with the EU Directive (2012/28/EU).

Enforcement: In Poland IPR enforcement is a both a civil and a criminal matter.

In civil proceedings an infringement should be pursued by the right holder in court. It should be mentioned that the enforcement of intellectual property rights through civil law in Poland is often criticised. In particular, the following problems are highlighted:

- Lengthy and excessive proceedings.
- Lack of specialised courts and judges with substantive preparation and inconsistent case law (decisions of a significant discrepancy based on the same legal grounds and factual evidence).
- Inefficient system of enforcement; problems concern both the execution of final judgments and provisions on the protection of claims and information obligations (Articles 80 and 105 of Act on Copyright and Related Rights).
- Lack of qualified experts.
- Other problems related to the IPR enforcement on the internet, such as lack of best practices governing the violations on the Internet and responsibilities of Internet service providers.

In criminal law there is a number of offences relating to copyright, most of them contained in the Act of 4 February 1994 on copyright and related rights (articles 115-119). Apart from the traditional offences such as false authorship claim or unauthorised reproduction and dissemination of protected works these also include offences of manufacture or possession of products or components intended for the circumvention of effective technical protection measure and failing to provide evidence. For the law enforcement authorities to take action the right holder must usually file an official petition, but some of the more serious ones allow for *ex officio* enforcement action.

Current debate

Summary of recent debates: The *Copyright Forum* (*Forum Prawa Autorskiego*) is the main platform for debates on the current copyright framework in Poland and its planned reforms. The Forum was established in 2013 by the Minister of Culture and National Heritage; it gathers around 80 institutions, associations and organisations of different origin including the representatives of creative, collective management organisations, chambers of commerce, cultural institutions and users and other related non-governmental organisations. Every meeting of the Forum is paralleled with written consultations, and all the outcomes are published online[88]. So far Forum has debated on: orphan works, out-of-commerce works, limitations and exceptions, public lending right, criminal sanctions; the Forum also joined copyright consultations organised by the European Commission. The results of these discussions will be incorporated into the legislative work on the new amendment of the Copyright Act that is going to start in 2014.

The copyright debate in Poland gained prominence after large scale protests broke out against the Anti-Counterfeiting Trade Agreement in early 2012, when thousands of protesters took to the streets around the country.

Industry associations: In Poland, there are several associations, industry chambers and collective management organisations of copyright-intensive industries in Poland. They carry out a number of activities, including: *i)* collective rights management *ii)* countering copyright infringement (intelligence collection, collaboration with relevant enforcement authorities, and training of public authorities) *iii)* awareness raising campaigns in the area of copyrights, and *iv)* data collection.

The most active industry-specific ones include: Izba Wydawców Prasy (Chamber of Press Editors), Polska Izba Książki (Polish Chamber of Books), and Krajowa Izba Producentów Audiowizualnych (National Chamber of Audiovisual Producers).

The main active collective management organisations include: ZAiKS (mostly literature and music), SAiW Copyright Polska (books, visual arts and photography), SFP (audio-visaul works), REPROPOL (press editors), STOART (music artists), SAWP (music authors), ZPAV (music producers), ZASP (actors), SARP (architects), ZPAV (photography), ZPAP (visual works).

Other relevant associations include: Stowarsyssenie Kreatywna Polska (Creative Poland), Swiąsek Kompozytorów Polskich (the Union of Polish Composers), and the Legalna Kultura foundation (copyright awareness-rising activities).

A number of non-profit non-gevernmental organisations are active in the debate. These include: Fundacja Nowoczesna Polska (Modern Poland Foundation), Centrum Cyfrowe: Projekt Polska (Digital Centre: Project Poland), Fundacja Panoptykon (Panoptykon Foundation), Fundacja Wolnego I Otwartego Oprogramowania (Free and Open Software Foundation).

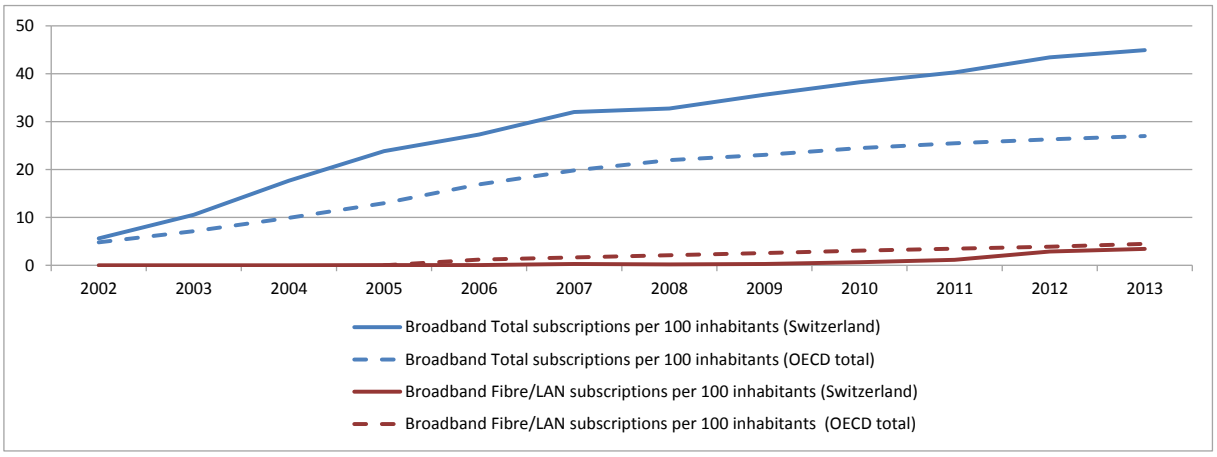
Switzerland

State of the Internet

In recent years access to broadband networks and the Internet has constantly increased in Switzerland. In terms of fixed broadband, penetration levels have been growing constantly and are well above the OECD average, reaching maturity. In addition, further deployments of fibre networks have taken place. Overall, however, deployment of fibre in Switzerland is still below the OECD average (see Figure 5.38).

Figure 5.39. Broadband penetration rates in Switzerland

2002-2013, per 100 inhabitants

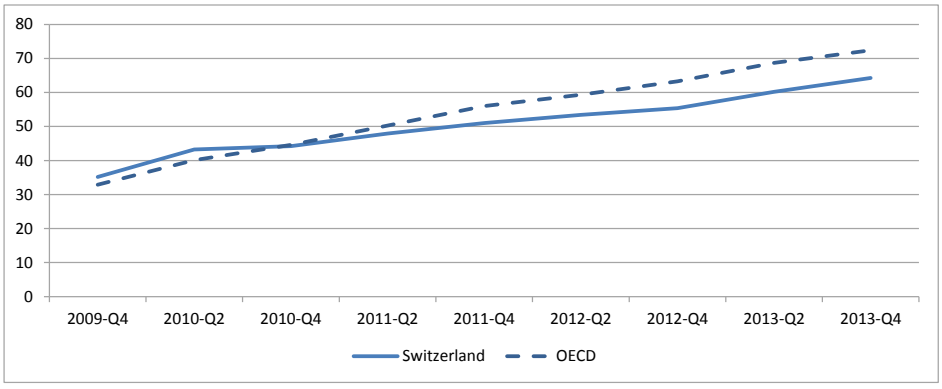


Source: OECD Broadband Portal

More recently there has been stable, substantial growth in mobile broadband access in Switzerland, opening up new communication possibilities to people as they are away from a fixed-line connection. Mobile broadband penetration has grown to almost 65% in Switzerland, which is slightly below the OECD average (Figure 5.39).

Figure 5.40. Mobile broadband subscriptions in Switzerland

2009-2013, per 100 inhabitants



Source: OECD Broadband Portal

Copyright-intensive industries: Market overview

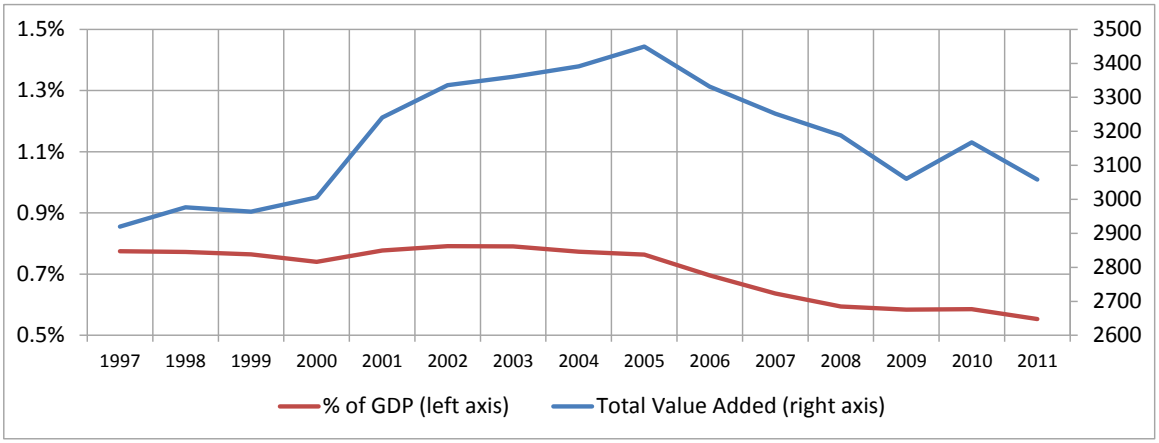
Unfortunately, to our knowledge the existing databases do not permit to draw an internationally-comparable picture of Swiss copyright-intensive industries. However, the Federal Statistical Office provides some information of the performance of the publishing, audio-visual and broadcasting industries (categories 58-60). These industries seem to be closely, although not fully representing, the core copyright-intensive industries as proposed by WIPO (2003).

Over the past fifteen years these industries in Switzerland have demonstrated somehow mixed performance, with a peak in 2005. Over that period the Swiss industry grew at average rate of 0.3%,

although at a slower rate than the overall economy. In absolute terms Swiss industries that rely on copyrights contributed on average CHF 3.1 billion to the Swiss GDP over the past ten years (Figure 5.40). In 2011 the total contribution calculated for these industries was CHF 3 billion, accounting for 0.3% of Switzerland's GDP.

Figure 5.41. Added value of copyright-intensive industries* in Switzerland

1997-2011, CHF millions, at current prices (right axis) and % of GDP (left axis)



*) Publishing, audio-visual and broadcasting activities (categories 58-60)

Source: Swiss Federal Statistical Office, Industry and services production and turnover indicators;

Legal landscape

Current copyright legislation: "Swiss Federal Act on Copyright and Related Rights". Adopted in 1992 (CopA).

Recent evolution: The Swiss copyright Act (CopA) has been amended several times in order to support a functioning market in the digital environment. These amendments implemented some international treaties and standards (such as the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty), lead to creation of the Monitoring Office for Technological Measures (see below), and included new copyright exceptions and limitations (for example relating to temporary copies and to the use of works by people with disabilities).

Duration of copyright: For software, copyright protection generally ends 50 years following the death of the last living author. For other creative works copyright protection generally ends 70 years following the death of the last living author.

Institutional setting: The main institution in Switzerland in charge of the copyright-related issues is the Swiss Federal Institute of Intellectual Property. It acts as advisory to the Federal Council and other federal administrators in all area of intellectual property and represents Switzerland at the international level in these areas. It also supervises the collecting societies.

The Federal Arbitration Commission for the Exploitation of Copyrights and Related Rights (Arbitration Commission)[89] is responsible for approving the tariffs of the collective rights management organisations.

The Monitoring Office for Technological Measures checks how technological measures are affecting the lawful use of works and whether public interests are being impacted. In addition, the office acts as an intermediary between those who apply technological measures and user and consumer groups and helps as needed in finding partnership solutions.

Database protection: There is no sui generis protection of databases in Switzerland. Original databases qualify for protection under copyright law.

Limitations and exceptions: In Switzerland the Copyright Act (CopA) defines precisely when a use of copyrighted contend can be done legally without rights holders' authorisations. This includes the following cases: private use (Art. 19, CopA); decoding of computer programs (art. 21, CopA); dissemination of broadcast works (Art. 22, CopA); use of broadcasting organisations' archived works (Art. 22*a*, CopA); use of orphan works (Art. 22*b*, CopA); making available broadcast musical works (Art. 22*c*, CopA); compulsory licence for the manufacture of phonograms (Art. 23, CopA); archive and backup copies (Art. 24, CopA); temporary copies (Art. 24*a*, CopA); copies for broadcasting purposes (Art. 24*b*, CopA); use of works by people with disabilities (Art. 24*c*, CopA); quotations (Art. 25, CopA); museum, exhibition and auction catalogues (Art. 26, CopA); works on premises open to the public (Art. 27, CopA); and reporting current events (Art. 28, CopA).

Orphan works: According to Article 22*b* of CopA use of orphan works is permitted in Switzerland and is subject to prior notification of collective societies. This Article only applies to phonograms or audiovisual fixations.

Copyright registration: Copyright cannot be registered in Switzerland.

Enforcement: In Switzerland, rights owners can file complaints in civil or criminal court against infringers. The cantonal courts are responsible for judging the infringement cases.

Current debate

Summary of current debate: In 2012, the Minister of Justice mandated a stakeholders' working group (AGUR12) to work on the modernisation of copyright law with regard to ongoing technical developments. The working group AGUR12 gathered representatives of: creative artists, producers, users, consumers, and representatives of the Swiss Federal Administration. In its final report that was published in December 2013, the AGUR12 recommends the adoption of a package of measures aimed at increasing the attractiveness of legal offers and simplifying the fight against piracy. These actions include improvement of consumer information, expanding and thus increasing the attractiveness of legal offers, simplifying the fight against piracy, enhancing the efficiency and transparency of collective societies, and adapting the limitations and exceptions to copyright to recent developments.[90]

Industry associations: There are many industry associations in Switzerland, including: AudioVision Schweiz (audio visual industry), Schweizerische Interpretengenossenschaft (performers), Schweizer Buchhändler- und Verleger-Verband (publishers and booksellers), Suisseculture (culture and media), Swiss Music Promoters Association (music industry), Verband Schweizer Medien (media), Simsa (the Swiss Internet Industry Association). In addition international associations, such as IFPI or BSA also have Swiss members and Swiss regional services.

These associations carry out a number of activities, including: (i) lobbying, stakeholder coordination and engaging in public debate about copyright, (ii) countering copyright infringement (intelligence collection, collaboration with relevant enforcement authorities), (iii) awareness raising campaigns in the area of copyrights, and (iv) data collection.

Industry best practices: The Hosting Code of Conduct (HCC) has been adopted by Simsa in early 2013 in order to counter the growth of traffic in illegal content, and in order to introduce industry standard that would strengthen legal security. The notice-and-take-down procedure introduced in the HCC contains principles of conduct that are already incorporated in self-regulatory instruments adopted by European and international associations of Internet Service Providers.

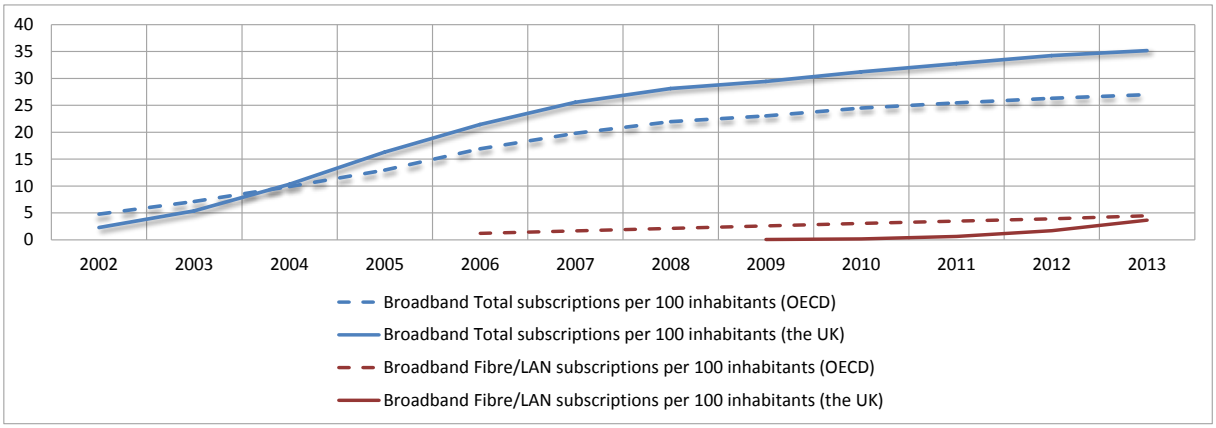
The United Kingdom

State of the Internet

In recent years access to broadband networks and the Internet has steadily increased in the UK. In addition, further deployments of fibre networks have taken place. Overall, broadband penetration rates are well above the OECD averages. However, the deployment of fibre in the UK is still at an early stage and below the OECD averages (see Figure 5.41).

Figure 5.42. Broadband penetration rates in the UK

2002-2013, per 100 inhabitants

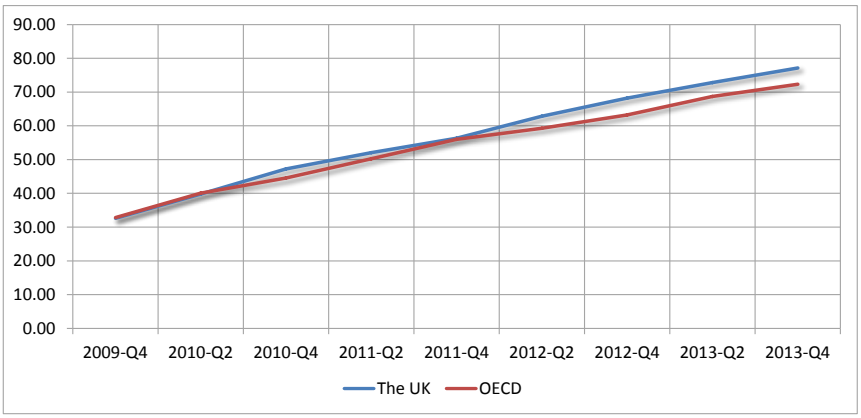


Source: OECD Broadband Portal

More recently there has been rapid and substantial growth in mobile broadband access in the UK, opening up new communication possibilities to people as they are away from a fixed-line connection. Mobile broadband penetration has grown to almost 80%, which is way above the OECD average that has grown to 72% (Figure 5.42).

Figure 5.43. Mobile broadband subscriptions in the UK

2009-2013, per 100 inhabitants



Source: OECD Broadband Portal

Copyright-intensive industries: Market overview

Value added: Over the past years copyright-intensive industries in the UK have demonstrated a better overall performance compared to the overall economy.[91] Between 2008 and 2012 the total volume of the copyright-based industries has increased by 15.6 %, compared with an increase of 5.4 % for the UK Economy as a whole. In 2012 the total contribution calculated for the core copyright-based industries in the UK was 5.2% of total GDP.

Employment: In 2012 the total number of people employed in copyright-intensive industries represented 5.6% of all employed by the UK industry. Between 2011 and 2012, the overall share of people employed in copyright-intensive industries in total industry employees grew by 8.6%.

Legal landscape

Current copyright legislation: In The UK the legal issue of copyrights is regulated by the Copyright, Designs and Patents Act 1988 ("CDPA"). In addition the UK is obliged to take into account relevant Directives of the European Parliament and of the Council in its legislation, such as: the Directive on the term of protection of copyright and certain related rights (2006/116/EC) or the directive on the harmonisation of certain aspects of copyright and related rights in the information society (Copyright Directive, 2001/29/EC)

Recent evolution: Within the past 20 years the main amendments originated from application of EU directives [see EU case study].

The most recent amendments took place on 29 October 2014, implementing the EU Orphan Works Directive (2012/28/EU) as well as a domestic orphan works licensing scheme.

Duration of copyright: For literary, dramatic, musical or artistic work copyright protection ends 70 years from the end of the year in which the author died. For sound recordings, it ends 50 years from the end of the year of making or, if it is published or made available during this time, 70 years from the end of the year in which it was published or made available. For film it ends 70 years from the end of the calendar year of the death of the last to die of the principal director, the author of the screenplay, the author of the dialogue, or the composer of music specially created for and used in the film, or if there are no such people, 50 years from the end of the year of making. For broadcasts, it ends 50 years from the end of the year the broadcast was made. For published editions: 25 years from the end of the year of publication.

Institutional setting: The UK Intellectual Property Office (IPO) has responsibility for copyright policy in the UK.

In addition, The Department for Culture, Media and Sport (DCMS) has an interest in supporting and promoting cultural copyright-intensive industries, and leads on some areas of broadcasting policy and on internet regulation, including measures against copyright infringement online.

The National Archives has responsibility for state-owned copyright.

Database protection: If a database meets the originality criteria, it is treated as a literary work and is protected under the law of copyright. In addition, all databases in the UK are protected by "Database Right" (implementation into UK law the provisions of the Database Directive), which gives the owner the right to prevent copying and unauthorised use of the database.

Limitations and exceptions: The UK provides for a number of exceptions to copyright, for purposes such as research and private study, education, and for the benefit of libraries and archives. Some are

restricted to 'fair dealing' with a work, and some come into being only when there is no licensed alternative available.

Recent amendments to UK copyright legislation (on 1 June and 1 October 2014) introduced a new set of copyright exceptions, in order to give a number of sectors a legal framework fit for the digital age. These exceptions allow uses such as personal copying for private use, parody, caricature and pastiche, quotation making accessible format copies of protected material for disabled people, text and data mining for non-commercial research, and fair dealing with copyright content for educational purposes.

Orphan works: The Directive of the European Parliament and of the Council on certain permitted uses of orphan works (2012/28/EU) sets out common rules to provide for an exception to copyright law allowing the digitisation and online display of orphan works. The UK implemented the Directive in October 2014. .

Additionally, at the same time the UK introduced an orphan works licensing scheme which permits anyone to reproduce any type of orphan work in any media for commercial and non-commercial use. This means that providing the applicant has shown that they have undertaken a sufficiently diligent search, on payment of a market rate licence fee they will be granted a non-exclusive licence to reproduce an orphan work for up to 7 years (which can be renewed), for use within the UK only (as the UK Government cannot grant licences for use in other jurisdictions). Licence fees are held in case the right holder/s reappear[92]. To increase the chances of any right holder/s being found, a freely accessible and searchable orphan works register is available. The register lists details of orphan works licence applications, works that have been licensed as orphan and applications that have been refused.

Copyright registration: Copyright registration is not required in the UK; it is not offered by the IPO.

Enforcement: The UK's IP enforcement agencies are the following:

- The *IPO* is responsible for all IP policy, including IP enforcement policy (in its Copyright and Enforcement Directorate). The IPO also has an intelligence capability in the form of an Intelligence Hub, which collaborates closely with law enforcement agencies. The IPO is not an enforcement agency itself, and is not able to take legal action against any sort of IP infringement.

- The UK's *Trading Standards* (TS) are responsible for tackling both piracy and counterfeiting at a local level. The TS eCrime Centre focuses on internet scams, include the large scale distribution of pirated and counterfeit goods.

- The Police tackle IP crime at a local, regional, national and international level. The Police IP Crime Unit (PIPCU), which is based in the Economic Crime Directorate of the City of London Police, is dedicated to tackling serious, organised IP crime online, in the form of both piracy and counterfeiting. (It was established in September 2013, and the IPO is providing £2.56m in funding over the first two years (2013-15)).

- The UK's National Crime Agency (NCA) (established in October 2013), targets all IP crime through its Economic Crime Command.

- Under EU Directive 608/2013, concerning customs enforcement of intellectual property rights, HM Revenue and Customs (HMRC) and Border Force have the power to detain copyright and trademark infringing material.

Current debate

Summary of recent debates: The public debate on "copyrights in the age of the Internet" seems to be relatively advanced in The UK. It has been taking place for several years, and gathered numerous experts from the government, academia, think tanks, industry and civil society[93].

Currently, the prominent issues under discussion include:

- The debate on potential reform of copyright at the EU level, with the emphasis on completing the Digital Single Market[94].
- The UK's copyright reforms, within the EU copyright framework. Many of these changes were recommended by the Hargreaves Review of IP and Growth (2010-11)[95].
- Meeting the enforcement challenges of digital technologies (including the internet)

Industry associations: There are many industry associations in the UK, including in the music, film and television, books and periodicals, visual arts, videogames and broadcasting sectors.[96] These associations carry out a number of activities, including: *i)* collective rights management, *ii)* countering copyright infringement (intelligence collection, collaboration with relevant enforcement authorities, training of public authorities), *iii)* awareness raising campaigns in the area of copyright, and *iv)* data collection.

Industry best practices There are several relevant industry initiatives in the area of copyright, including:

- *Codes of Practice for Collecting Societies*: Following extensive consultation with Government, most UK collecting societies have established a system of self-regulation through industry codes of practice that broadly align with the UK Government's minimum standards.
- *Digital Copyright Exchange*: A Copyright Hub has been established by the industry to provide a gateway for finding information about UK copyright. The project received initial funding from the Government, but the sector is now working with the Connected Digital Economy Catapult (CDEC) to further develop the project.

Voluntary Copyright Alert Programme (VCAP), an industry initiative that seeks to find a voluntary solution to provide a mass warning scheme to ISP consumers whose accounts show evidence of alleged infringing activity. Industry is still involved in the commercial negotiations to create such a scheme; however the UK Government remains fully supportive of VCAP.

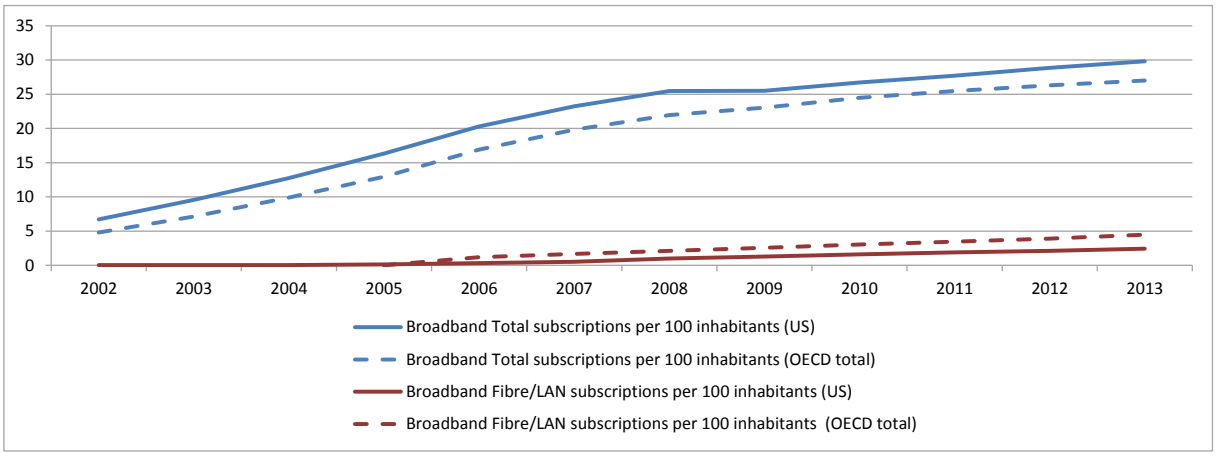
The United States

State of the Internet

Access to broadband networks and the Internet has constantly increased in the United States in recent years. In terms of fixed broadband, penetration levels have been growing constantly and are above the OECD average. In addition, further deployments of fibre networks have taken place. However, overall deployment of fibre in the United States is still at an early stage and is below the OECD average (see Figure 5.43).

Figure 5.44. Broadband penetration rates in the US

2002-2013, per 100 inhabitants

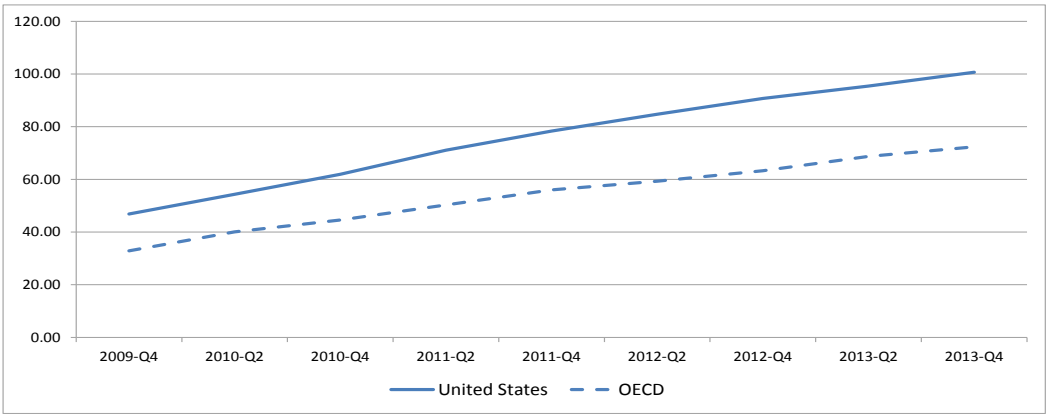


Source: OECD Broadband Portal

More recently there has been rapid and substantial growth in mobile broadband access in the United States, opening up new communication possibilities to people as they are away from a fixed-line connection. Mobile broadband penetration has grown to more than 100% in the United States, which is way above the OECD average that has grown to 72% (see Figure 5.44).

Figure 5.45. Mobile broadband subscriptions in the US

2009-2013, per 100 inhabitants



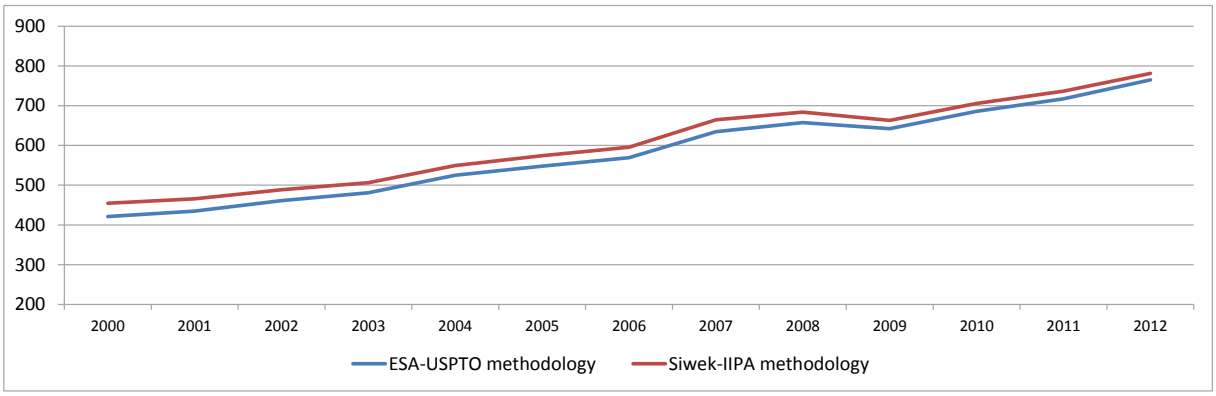
Source: OECD Broadband Portal

Copyright-intensive industries: Market overview

Value added: Over the past ten years the copyright-intensive industries in the United States have demonstrated generally good performance. Between 2000 and 2012 the total volume of the copyright-based industries grew either by 70% or 80%, depending on methodology chosen[97]. In absolute terms the US copyright-intensive industries reported moderate rates of growth, and contributed over the past ten years on average USD 590 billion to the American GDP (Figure 5.45).

Figure 5.46. Added value of copyright-Intensive industries in the United States

2000-2012, USD billion (according to Siwek-IIPA methodology and ESA-USPTO methodology)

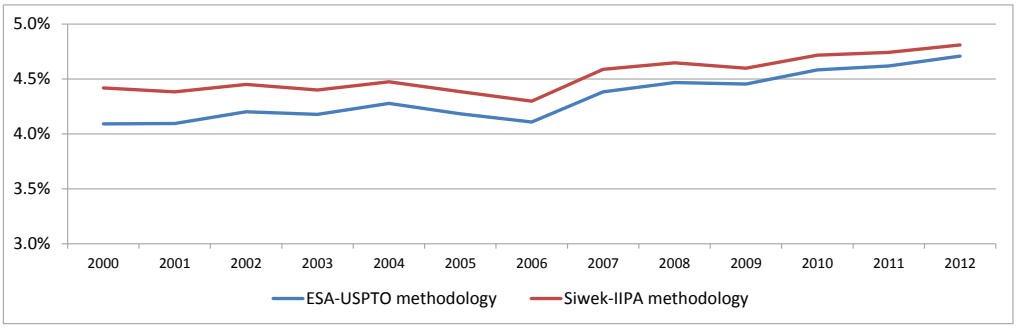


Source: Bureau of Economic Analysis' Industry Accounts database.

In 2012 the total contribution calculated for the core copyright-based industries was USD 764 billion according to the ESA-USPTO methodology, or USD 781 billion according to the Siwek-IIPA study which uses the statistical methodology as presented in WIPO (2003)[98]. The core copyright-based industries accounted for 4.7% (4.8%, respectively) of the US GDP (Figure 5.46).

Figure 5.47. Added value of copyright-Intensive industries in the United States

2000-2012, % of GDP (according to Siwek-IIPA methodology and ESA-USPTO methodology)

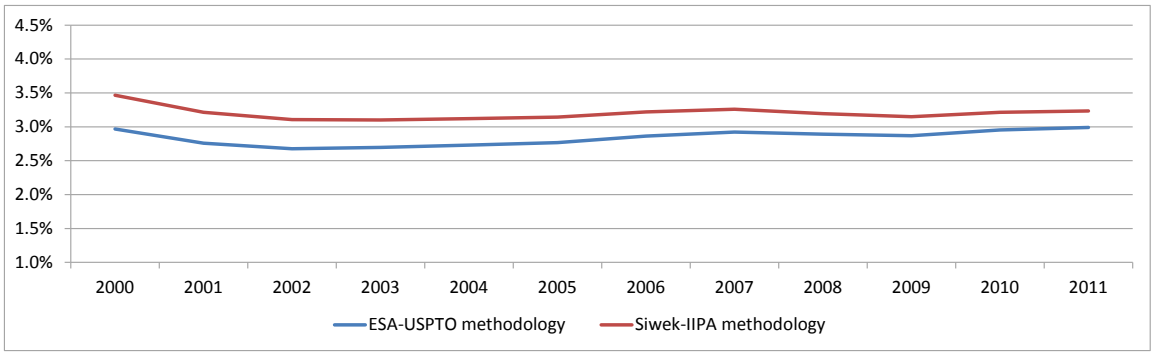


Source: Bureau of Economic Analysis' Industry Accounts database.

Employment: The total number of people employed in 2011 in copyright-intensive industries represented 3.0% of all employed by the US industry according to the ESA-USPTO methodology (3.2% according to Siwek-IIPA-methodology) (Figure 5.47), which seems almost unchanged compared to the shares reported in 2000. Between 2000 and 2011, the total employment in copyright-intensive industries reported some fluctuations and amounted to 4.17 million of employees in 2011 (4.5 million according to Siwek-IIPA methodology) (Figure 5.48).

Figure 5.48. Employment in copyright-intensive industries

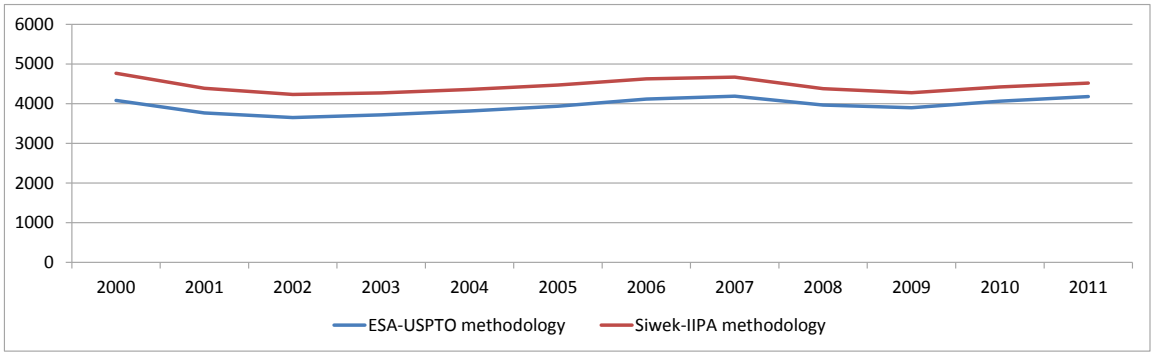
2000-2011; % of industry employment (according to Siwek-IIPA methodology and ESA-USPTO methodology)



Source: Bureau of Economic Analysis' Industry Accounts database.

Figure 5.49. Volume of employment in copyright-intensive industries

2000-2011; thousands of employees, (according to Siwek-IIPA methodology and ESA-USPTO methodology)



Source: Bureau of Economic Analysis' Industry Accounts database.

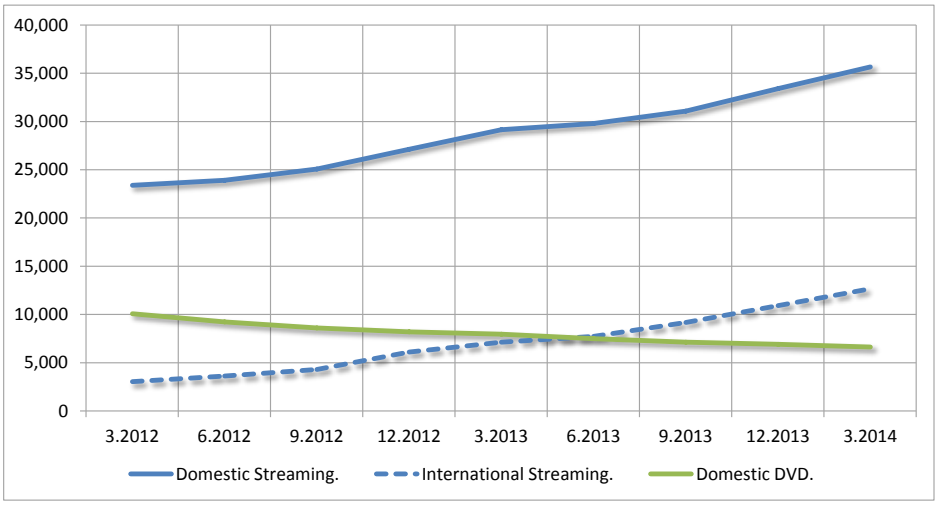
Business cases: The Internet significantly affects the American copyright-intensive industries by re-shaping existing business models and introducing brand new ways of business operation. In 2011, e-commerce reached 16% of the US business sector turnover (excluding some service activities), doubling with respect to the beginning of the decade (OECD, 2012). The efficiencies enabled by the Internet have also been welcomed by copyright-intensive industries, and there are numerous business initiatives that took the advantage of the Internet as the distribution channel. Two prominent anecdotal examples include Apple's *iTunes* and *Netflix*, whose current business models are based on the digitisation of content (see Box 5.8.).

Box 5.8. Creative businesses on the Internet in the United States: Apple's iTunes and Netflix

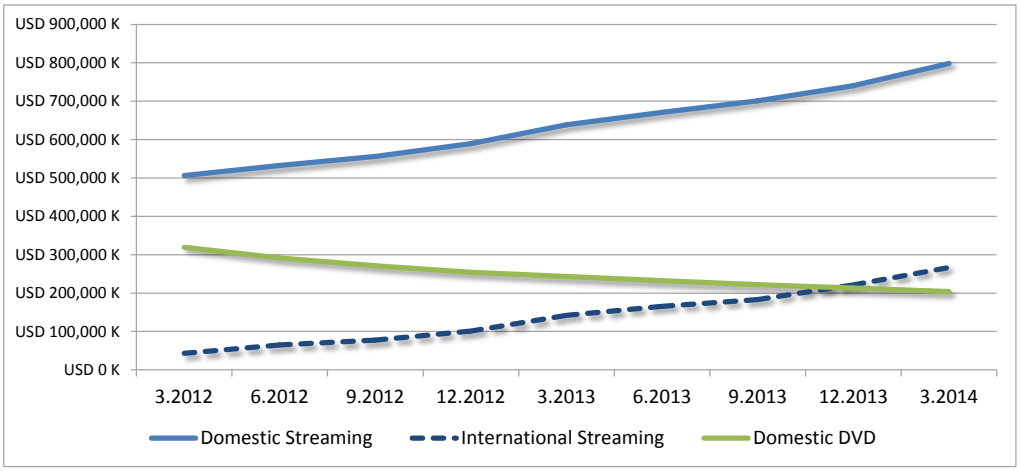
iTunes is an umbrella term that refers to an online digital media store operated by Apple and to compatible pieces of software (media player, media library, etc.) that were developed by Apple. The *iTunes* store opened in 2003, and offers music, apps, TV shows, audiobooks, podcasts, movies, etc. All the downloaded content becomes immediately available on Apple devices, such as iPhone, iPod or iPad. After some years of tremendous growth *iTunes* became in 2010 the biggest online music store in the world.

Netflix is a provider of two types of services: streaming of media on-demand and DVD-by-mail. *Netflix* started in 1997 as an online DVD rental, with flat fees and an extensive and successful personalised video-recommendation system. In 2007 *Netflix* began to expand its market by introducing video on demand via the Internet. While the number of on-line DVD rentals fell from 2006 onwards, the on-line streaming turned out to be successful. As of mid-2014, *Netflix* reports global streaming subscribers at 50 million (36 million in the United States) (See Box Figure 5.1). *Netflix* revenues from streaming yield at that period USD 1.04 billion (USD 800 million in the United States) (See Box Figure 5.2).

Box Figure 5.1: Netflix. Total members in various market segments (in thousands)**.**



Box Figure 5.2: Netflix. Revenues in various market segments (in thousands USD)**.**



Source OECD, based on data from Netflix 2011 annual report

Legal landscape

Current copyright legislation: Copyright protection in the United States is governed by the Copyright Act of 1976 and all subsequent statutory amendments and enactments thereto[99].

Recent evolution: A number of revisions to the US copyright legislation have sought to reflect contemporary uses of technology, to cope with changes in socio-economic landscape and to comply with evolving international obligations[100].

One of the most profound amendments over the past 20-year period was the Digital Millennium Copyright Act (DMCA) that was passed in 1998. The DMCA implemented the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, including obligations pertaining to technological protection measures and rights management information. It also addressed a number of other significant issues, including, inter alia, the creation of qualified limitations on liability for online service providers when engaged in certain categories of activities, and exceptions pertaining to computer maintenance and repair, digital preservation by libraries/archives and ephemeral recordings[101].

In addition to legislation, the U.S. courts also have a role in interpreting U.S. copyright law to address legal, technological, and other changes.

Duration of copyright: In the United States the copyright law automatically protects a copyrightable work that is created and fixed in a tangible medium of expression on or after January 1, 1978, from the moment of its creation and gives it a term lasting for the author's life plus an additional 70 years. This is only a general rule, however. Depending on when a work was created and whether a work was published, different rules may apply. Additionally, the terms of protection for anonymous, pseudonymous and works made for hire also constitute exceptions to the basic life plus seventy term[102].

Institutional setting: The Copyright Act vests all administrative functions and duties under the Act with the Register of Copyrights as well as important copyright policy functions (as director of the U.S. Copyright Office) [103]. The Register's duties include advising Congress on national and international issues relating to copyright; providing information and assistance to federal agencies and the judiciary relating to copyright; participating in meetings of international intergovernmental organisations and meetings with foreign government officials relating to copyright issues; and conducting studies and programs regarding copyright[104]. In addition to the Copyright Office, copyright-related issues are within the scope of interest of other federal agencies. According to statute, the United States Patent and Trademark Office (USPTO, as part of the Department of Commerce, principally advises the President and the entire Executive Branch of the federal government on matters concerning intellectual property law and policy (including copyright). Other parts of the Department of Commerce dealing with copyright-related issues include: Economic and Statistics Administration (ESA), International Trade Administration (ITA), National Telecommunications and Information Administration (NTIA), and the National Institute of Standards and Technology (NIST). In addition, the USTR provides advice on the trade-related aspects of intellectual property, including copyright. The Office of International Intellectual Property Enforcement of the Department of State works closely with other federal departments and agencies on intellectual property issues along with providing advice to economic, commercial and public diplomacy officers at U.S. embassies around the world." The Computer Crime and Intellectual Property Section (CCIPS) of the Criminal Division of the United States Department of Justice is the federal entity that prosecutes intellectual property crimes.

Database protection: In the United States there is no *sui generis* database right. This means that databases do not receive a separate protection, but copyright protection extends to the selection, coordination or arrangement of information when it is done so in a manner that is adjudged original enough to receive protection[105].

Limitations and exceptions: The U.S. Copyright Act includes six exclusive rights in Section 106, including rights to reproduce the works, to prepare derivative works, to distribute copies, etc.

Concerning exceptions and limitations, Sections 108-122 of the United States Copyright Act enunciate specific limitations and exceptions for a range of uses of copyrighted material that do not require authorisation from a right holder. The United States codified the judge-made fair use doctrine in its Copyright Act in 1976 in Section 107. This section includes a list of various purposes for which the use of a particular work may be considered fair, such as criticism, comment, news report, teaching, scholarship, and research. It also sets out four factors to be considered in determining whether a particular use is fair. These factors are: *i)* the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes; *ii)* the nature of the copyrighted work; *iii)* the amount and substantiality of the portion used in relation to the copyrighted work as a whole, and *iv)* the effect of the use upon the potential market for or value of the copyrighted work[106].

It should be mentioned that the fair use doctrine is buttressed by decades of case law jurisprudence and any given litigation takes place against this backdrop; in litigation, fair use must be raised as an affirmative defence to infringement. Section 107 does not comprise all of the copyright exceptions under the Copyright Act, however, as noted above.

Orphan works: Orphan works are not explicitly regulated in the United States.

At the request of Congress, the U.S. Copyright Office finalised a report on Orphan Works in January 2006. Legislation was introduced in Congress in 2006 and again in 2008, but was never ultimately enacted into law. The proposed legislation generally tracked the recommendations of the Copyright Office and would have limited remedies available under the Copyright Act when a user is unable to locate the copyright owner or other appropriate rights holder after conducting a good faith reasonably diligent search; been applicable on a case-by-case basis; and permitted the copyright owner or other rights holder later to collect reasonable compensation from the user, but not statutory damages or attorney's fees.

Currently the United States Copyright Office is studying issues involving both orphan works and mass digitisation. Public comments have been received, and the Copyright Office recently held a public roundtable meeting on this topic on March 10-11, 2014[107]. The Office expects to release a report and recommendation on these issues to Congress sometime in 2015.

Copyright registration: In the United States an author can file an application for a copyright registration. Registration is voluntary and it is not a condition of copyright protection that copyright protection begins automatically at the moment of authorship (i.e., the moment an original work is fixed in a tangible medium of expression). Nonetheless, registration provides the copyright owner with certain benefits, including permitting a copyright owner to pursue statutory damages in civil lawsuits and providing prima facie evidence in court of the validity of the copyright claim.

For works of U.S. origin, an author must register before filing an infringement suit in court. Moreover, for all works, statutory damages and attorney's fees are available if registration is made within three months after publication of a work or prior to infringement. Other benefits of registration can be found at the U.S. Copyright Office website[108].

Enforcement: In the United States, copyright infringement is generally a civil matter, which the copyright owner must pursue in federal court. Under certain circumstances, the infringement may also constitute a criminal misdemeanour or felony, which would be prosecuted by the U.S. Department of Justice. Indeed, the Justice Department recently issued the fourth edition of its Manual on Prosecuting IP Crimes[109].

Current debate

Summary of current debate: Over the last 20 years, there has been a robust discussion of a broad range of issues related to "copyright in the age of the Internet" involving the U.S. Government, industry, academia, and civil society. The Green Paper on Copyright, Creativity, and Innovation in the Digital Economy ("Green Paper") issued in July 2013 by the Department of Commerce Internet Policy Task Force (IPTF) provides an overview of the developments during that time period.

Most recently, following a call for congressional review of the copyright law from Register of Copyrights Maria Pallante in early 2012[110], the House Subcommittee on Courts, Intellectual Property and the Internet is currently undertaking a comprehensive review of U.S. copyright law. Several hearings following the Register's original testimony in March 2013 have been held (as of early June 2013), including the following: A Case Study for Consensus Building: The Copyright Principles Project (May 2013); Innovation in America: The Role of Copyrights (July 2013); Innovation in America: The Role of Technology (August 2013); The Role of Voluntary Agreements in the U.S. Intellectual Property System (September 2013); The Rise of Innovative Business Models: Content Delivery Methods in the Digital Age (November 2013); The Scope of Copyright Protection (January 2014); The Scope of Fair Use (January 2014); Section 512 of Title 17 (March 2014); Preservation and Reuse of Copyrighted Works (April 2014); Compulsory Video Licenses of Title 17 (May 2014); and First Sale under Title 17 (June 2014); Music Licensing Under Title 17 (June 2014); Moral Rights, Termination Rights, Resale Royalty, and Copyright Term (July 2014); Copyright Remedies; and Chapter 12 of Title 17 (September 2014) and Copyright Issues in Education and for the Visually Impaired (November 2014)[111]. More hearings will be scheduled at least through the first half of 2015.

In addition, the U.S. Copyright Office regularly undertakes studies at the request of Congress and also under its own initiative. Recent reports for Congress have included a report on *Small Copyright Claims* (September 2013)[112] and on *Resale Royalties* (December 2013)[113]. The Office also has open dockets, requesting public comment in advance of completing reports to Congress on issues such as orphan works and mass digitisation (mentioned above), the right of making available[114], and issues related to music licensing[115]. Preparation of such reports involves requests for public comment as well as public roundtable hearings. These policy efforts are in addition to the Office's ongoing work, which includes registration issues, a review of the copyright recordation system, an inquiry into technological updates, an updated fee study, and associated regulatory rulemakings[116].

The IPTF of the U.S. Department of Commerce also brought together the technical, policy, trade, economic, and legal expertise of several government agencies to produce the "Green Paper"[117]. The Green Paper "provides a lens through which to assess current policy related to copyright and the Internet, identifying important issues that are being addressed by the courts and those that are ripe for further discussion and development of solutions." The paper checks whether the "current balance of rights, exceptions and responsibilities – crafted, for the most part, before the rapid advances in computing and networking of the past two decades – is still working for creators, rights holders, service providers, and consumers"[118].

As a follow up to the Green Paper, the IPTF will be holding a series of roundtable discussions in 2014 on:

- the legal framework for the creation of remixes;
- the relevance and scope of the first sale doctrine in the digital environment; and

- the appropriate calibration of statutory damages in the contexts of: *i)* individual file sharers and *ii)* secondary liability for large-scale infringement.

The purpose of the roundtables was to seek additional input from the public in locations around the country in order for the Department to have a complete and thorough record upon which to make recommendations.

In the Green Paper, the Department also stated its intention to establish an open multi stakeholder forum aimed at improving the operation of the notice and takedown system for removing infringing content from the Internet under the Digital Millennium Copyright Act (DMCA). The goal is to provide a collaborative forum through which stakeholders will identify best practices and/or develop voluntary agreements for improving the technical operation of the DMCA notice and takedown system. A wide variety of the notice and takedown system's users are participating, including right holders and individual creators, service providers, consumer and public interest representatives, and technology companies.

Best practices: Much of the content industry's enforcement initiatives in the United States seem to concentrate in the area of online copyright enforcement; to be clear, however, the content industries do continue to engage in anti-piracy actions that involve their content that is not online in nature. Indeed, most online copyright enforcement actions in the United States are handled through civil litigation. Copyright owners have at their disposal a range of possible tools, including lawsuits against the primary infringer as well as actions based on theories of secondary liability. There are also procedures apart from litigation for removing infringing content from the Internet[119]. Also, as mentioned above, certain copyright infringement cases have resulted in federal criminal prosecutions.

Considerable progress in curbing online infringement has been made in recent years through stakeholder co-operation. One such example can be found in the voluntary agreement reached between rights holders and internet service providers to implement the Copyright Alert System. The first report marking the one year anniversary of the implementation of this system was recently released[120].

The Green Paper notes that most online copyright enforcement is handled through private action. Copyright owners have at their disposal a range of possible tools, including lawsuits against the primary infringer or based on theories of secondary liability, as well as procedures short of litigation for removing infringing content from the Internet[121].

ANNEX. COPYRIGHT-INTENSIVE INDUSTRIES

Australia

Table A 5.1.: Copyright-intensive Industries in Australia

Industry (ANZSIC, 2006, Revision 2.0)	code
Newspaper, Periodical, Book and Directory Publishing	Group 541
Software Publishing	Group 542
Motion Picture and Video Activities	Group 551
Sound Recording and Music Publishing	Group 552
Radio Broadcasting	Group 561
Television Broadcasting	Group 562
Internet Service Providers and Web Search Portals	Group 591
Data Processing, Web Hosting and Electronic Information Storage Services	Group 592
Libraries and Archives	Group 601
Other Information Services	Group 602
Advertising Services	Group 694
Other Professional, Scientific and Technical Services	Group 699
Creative and Performing Arts Activities	Group 900
Amusement and Other Recreation Activities	Group 913
Printing and Printing Support Services	Group 161
Reproduction of Recorded Media	Group 162
Newspaper and Book Retailing	Class 4244
Entertainment Media Retailing	Class 4242
Telecommunications Services	Group 580
Data Processing, Web Hosting and Electronic Information Storage Services	Group 592

Canada

Table A 5.2. Core Copyright-Based Industries in Canada

Industry (NAICS description)	NAICS code
Publishing Industries (except Internet)* * includes 5111 Newspaper, periodical, book, and directory publishers, and 5112 Software publishers	511
Motion picture and sound recording industries ** ** includes 5121 Motion picture and video industries and 5122 Sound recording industries	512
Radio and television broadcasting	5151
Cable and other subscription programming	5152
Computer systems design and related services (software and databases)	5415
Advertising, public relations, and related services	5418
Performing arts, spectator sports and heritage institutions	71A

The European Union, Italy and Poland

Table A 5.3. Copyright-intensive Industries in the European Union, Italy, and in Poland

Industry (NACE description)	NACE code
Book publishing	58.11
Publishing of newspapers	58.13
Publishing of journals and periodicals	58.14
Other publishing activities	58.19
Publishing of computer games	58.21
Other software publishing	58.29
Motion picture, video and television programme production activities	59.11
Motion picture, video and television programme post-production activities	59.12
Motion picture, video and television programme distribution activities	59.13
Motion picture projection activities	59.14
Sound recording and music publishing activities	59.20
Radio broadcasting	60.10
Television programming and broadcasting activities	60.20
Wireless telecommunications activities	61.20
Computer programming activities	62.01
Computer consultancy activities	62.02
Computer facilities management activities	62.03
Other information technology and computer service activities	62.09
Web portals	63.12
News agency activities	63.91
Other information service activities n.e.c.	63.99
Advertising agencies	73.11
Media representation	73.12
Specialised design activities	74.10
Photographic activities	74.20
Translation and interpretation activities	74.30
Performing arts	90.01
Support activities to performing arts	90.02
Artistic creation	90.03
Library and archives activities	91.01
Other amusement and recreation activities	93.29
Printing of newspapers	18.11
Other printing	18.12
Pre-press and pre-media services	18.13
Binding and related services	18.14
Reproduction of recorded media	18.20
Retail sale of books in specialised stores	47.61
Retail sale of newspapers and stationery in specialised stores	47.62
Retail sale of music and video recordings in specialised stores	47.63
Wired telecommunications activities	61.10
Satellite telecommunications activities	61.30
Other telecommunications activities	61.90
Data processing, hosting and related activities	63.11
Other reservation service and related activities	79.90

Industry (NACE description)	NACE code
Photocopying, document preparation and other specialised office support activities	82.19
Cultural education	85.52
Operation of arts facilities	90.04
Activities of amusement parks and theme parks	93.21
Activities of professional membership organisations	94.12

Source: EPO-OHIM (2013).

Japan

Table A 5.4. Copyright-intensive Industries in Japan

Industry (Japan Standard Industrial Classification; Rev. 12, November 2007)	code
Broadcasting	38
Information Services	39
Internet based services	40
Video Picture Sound Information, character Information Production and distribution (except. 4161 and 4169)	41
Advertising	73
Libraries	8212
Establishments engaged in administrative or ancillary economic activities (share corresponding to category 8212)	820
Design services	726
Authors and Artists	727
Establishments engaged in administrative or ancillary economic activities (share corresponding to category 726 and 727)	720
Photographic Studios	746
Establishments engaged in administrative or ancillary economic activities (share corresponding to category 746)	740
Performances (except otherwise classified), Theatrical Companies)	802
Establishments engaged in administrative or ancillary economic activities (share corresponding to category 802)	800
Printing and allied Industries	15
Semiconductor memory media	2831
Optical discs and magnetic tapes and discs	2832
Establishments engaged in administrative or ancillary economic activities (share corresponding to category 2831 and 2832)	280

Source: http://www.stat.go.jp/english/index/seido/sangyo/san07-3a.htm#g

Korea

Table A 5.5. Copyright-intensive Industries in Korea

Economic Activity (Class)	KSCIC Code	Description
Press and Literature		
Authors, writers, translators (including one person business)	1010101	Independent performing artists (Press, literature)
	1010102	Translation services (Press, literature)
Newspapers	1010200	Publishing of newspapers
News and feature agencies etc.	1010300	News agency activities
Magazines/periodicals	1010401	Publishing of magazines and periodicals
	1010402	Publishing of advertising periodicals
Book publishing	1010501	Publishing of textbooks and study books
	1010502	Publishing of cartoons
	1010599	Other publishing
Cards, maps, directories and other published materials	1010600	Other publishing of prints (Cards, maps, etc.)
Pre-press, printing, and post-press of books, magazines, newspapers, advertising materials	1010701	Commercial printing by stencil plates and similar plates or master printing (Books, magazines, newspapers, advertising materials)
	1010702	Screen printing (Books, magazines, newspapers, advertising materials)
	1010797	Other printing (Books, magazines, newspapers, advertising materials)
	1010703	Printing composition service and plate-making (Books, magazines, newspapers, advertising materials)
	1010704	Bookbinding service (Books, magazines, newspapers, advertising materials)
	1010798	Other service activities related to printing (Books, magazines, newspapers, advertising materials)
Wholesale and retail of press and literature	1010801	Wholesale of books, magazines and newspapers
	1010802	Retail sale of books and magazines
	1010803	Book renting
	1010804	Retail sale of stationery
Libraries	1010900	Library and archive activities (Literary books)
Music, Theatrical Productions & Operas		
Composers, lyricists, arrangers, choreographers, writers, directors, performers and other personnel (including one person business)	1020101	Performing arts event promotion and organization
	1020102	Public performance and production agencies
	1020103	Other creative and arts-related services n.e.c.
	1020104	Independent performing artists (Music, theatrical productions, operas)
	1020105	Independent non-performing artists (Music, theatrical productions, operas)
	1020106	Managers
	1020107	Ballroom operation
	1020108	Singing room operation
	1020109	Recreation education
	1020199	Other recreation services n.e.c.

Printing and publishing of music	1020200	Publishing of music and other audio
Production/manufacturing of recorded music	1020300	Reproduction of musical records and videotapes
Wholesale and retail of recorded music	1020401	Wholesale of musical records and videotapes
	1020402	Retail sale of musical records and videotapes
	1020403	Discs and video tapes renting
Creative Support Services (art, literature)	1020500	Creative and arts support services
Performances and allied agencies (bookings, ticket agencies, etc.)	1020601	Operation of public performance facilities (Music, theatrical productions, operas)
	1020602	Performing arts event promotion and organization (Music, theatrical productions, operas)
	1020603	Public performance and production agencies
	1020699	Other creative and arts-related services n.e.c.
Motion Picture and Video		
Writers, directors, actors (including one person business)	1030101	Independent performing artists (Motion picture, video)
	1030102	Independent non-performing artists (Motion picture, video)
Motion picture and video production and distribution	1030201	General motion picture and video production
	1030202	Animated cartoon and video production
	1030203	Commercials advertising motion picture and video production
	1030204	Motion picture, video production related services
	1030205	Motion picture, video distribution
	1030206	Sound-recording studios (Motion picture, video)
Motion picture exhibition	1030301	Motion picture exhibition
	1030302	Video exhibition rooms
Video rental and sales, video on demand	1030401	Wholesale of videotapes
	1030402	Retail sale of videos
	1030403	Video tape renting
Allied services	1030500	Reproduction of recorded media (Motion picture, video)
Radio and television		
Television programme production activities	1040101	Broadcasting programme production
	1040102	Broadcasting programmes' production-related services
	1040103	Broadcasting programme distribution
National radio and television broadcasting companies	1040201	Radio broadcasting
	1040202	Over-the-air broadcasting
	1040203	Other programme distribution
Independent producers	1040300	Broadcasting programme production (Independent producers)
Cable television	1040401	Wired telecommunications
	1040402	Cable networks
Satellite television	1040501	Satellite telecommunications
	1040502	Broadcasting via satellite and other broadcasting
Economic Activity (Class)	**KSCIC Code**	**Description**

Photography		
Studios and commercial photography	1050101	Portrait photography and videotaping of events services
	1050102	Commercial photography services
	1050103	Photograph processing
	1050104	Independent non-performing artists (Photography)
Photo agencies and libraries	1050201	Printing composition services and plate-making (Photography)
	1050202	Bookbinding services (Photography)
	1050203	Other service activities related to printing (Photography)
	1050204	Library and archive activities (Photography)
	1050299	All other business support services (Photography)
Software and databases		
Programming, development, and design manufacturing	1060101	Online and mobile game software development and supply
	1060102	Other game software development and supply
	1060103	System software development and supply
	1060104	Application software development and supply
	1060105	Computer programming services
	1060106	Computer system integration consultancy and establishment services
	1060107	Computer facilities management services
	1060199	Other information technology and computer operation related services
Wholesale and retail prepackaged software	1060201	Wholesale of software
	1060202	Retail sale of software
Database processing and Publishing	1060301	Data processing
	1060302	Hosting and related service activities (database processing)
	1060303	Portals and other internet information media service activities
	1060304	Database activities and online information provision services
Visual and Graphic arts		
Artists(fine arts, crafts, visual graphics)	1070100	Independent non-performing artists (Fine arts, crafts, visual graphics)
Art galleries and other wholesale and retail	1070201	Arts works and Antiques wholesale and retail
	1070202	Visual arts services (Galleries)
Picture framing and other allied services	1070300	Mounted arts-related services
Graphic design	1070401	Graphic design services
	1070402	Service activities related to printing(Graphic design)
	1070403	Editing and proofreading services (Graphic design)
	1070499	All other business support services (Graphic design)

Economic Activity (Class)	KSCIC Code	Description
Advertising Services		
Agencies, buying service	1080001	Media advertising agencies
	1080002	Outdoor and exhibition advertising
	1080003	Media representatives and media buying agencies
	1080004	Advertising preparation
	1080005	Market research and public opinion polling
	1080099	Other advertising n.e.c.
Copyright Collective Societies		
Copyright collective societies	1090001	Professional organizations (12 copyright collecting societies)
	1090002	Leasing of intangible property rights
	1090003	Agencies of business and intangible property rights

The United Kingdom

Table A 5.6. Copyright-intensive Industries in the UK (Eurostat)

Copyright-intensive industries Group	SIC	Description
Advertising and marketing	70.21	Public relations and communication activities
	73.11	Advertising agencies
	73.12	Media representation
Architecture	71.11	Architectural activities
Crafts	32.12	Manufacture of jewellery and related articles
Design: product, graphic and fashion design	74.10	Specialised design activities
Film, TV, video, radio and photography	59.11	Motion picture, video and television programme production activities
	59.12	Motion picture, video and television programme post-production
	59.13	Motion picture, video and television programme distribution
	59.14	Motion picture projection activities
	60.10	Radio broadcasting
	60.20	Television programming and broadcasting activities
	74.20	Photographic activities
IT, software and computer services	58.21	Publishing of computer games
	58.29	Other software publishing
	62.01	Computer programming activities
	62.02	Computer consultancy activities
Publishing	58.11	Book publishing
	58.12	Publishing of directories and mailing lists
	58.13	Publishing of newspapers
	58.14	Publishing of journals and periodicals
	58.19	Other publishing activities
	74.30	Translation and interpretation activities
Museums, galleries and libraries	91.01	Library and archive activities
	91.02	Museum activities
Music, performing and visual arts	59.20	Sound recording and music publishing activities
	85.52	Cultural education
	90.01	Performing arts
	90.02	Support activities to performing arts
	90.03	Artistic creation
	90.04	Operation of arts facilities

Source: The UK Department for Culture, Media and Sport (2014)

The United States

Table A 5.7. Copyright-intensive Industries in the United States

Type	Industry (NAICS description)	NAICS code
Core (ESA-USPTO and Siwek-IIPA)	Newspaper, periodical, book, and directory publishers	5111
Core (ESA-USPTO and Siwek-IIPA)	Software publishers	5112
Core (ESA-USPTO and Siwek-IIPA)	Motion picture and video industries	5121
Core (ESA-USPTO and Siwek-IIPA)	Sound recording industries	5122
Core (ESA-USPTO and Siwek-IIPA)	Radio and television broadcasting	5151
Core (ESA-USPTO and Siwek-IIPA)	Cable and other subscription programming	5152
Core (ESA-USPTO and Siwek-IIPA)	Specialized design services (visual and graphic arts)	5414
Core (ESA-USPTO and Siwek-IIPA)	Computer systems design and related services (software and databases)	5415
Core (ESA-USPTO and Siwek-IIPA)	Advertising, public relations, and related services	5418
Core (ESA-USPTO and Siwek-IIPA)	Other professional, scientific, and technical services (photography and translation)	5419
Core (ESA-USPTO and Siwek-IIPA)	Performing arts companies	7111
Core (ESA-USPTO)	Independent artists, writers, and performers	7115
Core (ESA-USPTO)	Other information services (news syndicates and internet sites)	5191
Core (Siwek-IIPA)	Printing and related support activities	3231
Core (Siwek-IIPA)	Manufacturing and reproducing magnetic and optical media	3346

NOTES

1 As noted, this study is based on an examination of 12 jurisdictions. The economic trends and legal debates that are developed therefore may not reflect those of every Member State of the OECD. In particular, the analyses and conclusions from this Chapter, and their summary in Chapter 1, may not be applicable in the OECD countries which did not participate in the study.

2 Directive on the harmonisation of certain aspects of copyright and related rights in the information society (2001/29/EC).

3 *Orphan works* have been referred to as copyrighted works whose rights holder cannot be identified and/or located.

4 WIPO Copyright Treaty, adopted in Geneva on December 20, 1996; and WIPO Performances and Phonograms Treaty, adopted in Geneva on December 20, 1996; available at http://www.wipo.int/treaties.

5 See BSA (2014), Danaher et al. (2012), Juniper Research (2104).

6 For example, according to a recent report by KPMG, 86% of most popular film and TV titles in the UK are available via legitimate services (KPMG, 2014). See also BSA (2014), Danaher et al. (2012), Juniper Research (2104).

7 Source: https://www.flickr.com/photos/franckmichel/6855169886/

8 Copyrights are be limited by certain limitations and exceptions. This issue is presented in Sections one and three of this chapter.

9 These include: Berne Convention for the Protection of Literary and Artistic Works (of September 9, 1886, completed at Paris on May 4, 1896, and revised and amended several time since then; last amendment in September 28. 1979); International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention; done at Rome on October 26, 1961); Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms (of October 29, 1971); Copyright Treaty (adopted in Geneva on December 20, 1996); Beijing Treaty on Audiovisual Performances (adopted by the Diplomatic Conference on the Protection of Audiovisual Performances in Beijing, on June 24, 2012); Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (adopted by the Diplomatic Conference to Conclude a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities in Marrakesh, on June 27, 2013).

10 Article 5(2) of Berne conventions states that "[t]he enjoyment and the exercise of [copyrights] shall not be subject to any formality."

11 While this chapter focuses primarily on the copyright intensive industries, it is also important to acknowledge the expanding body of user generated digital content. The Internet and hardware from cameras to smart phones empower individuals to create and disseminate digital content which is now another important source of information and entertainment.

[12] Source: https://www.flickr.com/photos/franckmichel/6855169886/

[13] Source: http://mashable.com/2013/09/16/facebook-photo-uploads/

[14] Source: http://instagram.com/press/

[15] Source : http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html

[16] Source : http://press.spotify.com/fr/information/

[17] Source: https://www.youtube.com/yt/press/statistics.html

[18] Source: OECD based on Instantwatcher (http://instantwatcher.com/titles/all)

[19] The comprehensive database of services is searchable by country, language, genre and other factors and can be found at *http://mavise.obs.coe.int/welcome*

[20] The growth in new business models may not offset the initial drop in sales.

[21] See page endnote 5.

[22] For more information see the final report of High Level Expert Group on Digital Libraries advising the European Commission in the framework of the i2010 Digital Libraries Initiative. Available at: http://www.dlorg.eu/uploads/External%20Publications/HLG%20Final%20Report%202009%20clean.pdf

[23] For a detailed list of copyright-intensive industries in Australia, see table A 5.1 in the Annex.

[24] More detailed info can be found in the document "Short guide to copyright". Available at: http://www.ag.gov.au/RightsAndProtections/IntellectualProperty/Pages/Copyright-information.aspx

[25] See "Australian Copyright Council Information sheet G101v04". Available at: http://www.copyright.org.au/admin/cms-acc1/_images/1549612446523924db2ad24.pdf

[26] See: http://www.alrc.gov.au/publications/copyright-report-122

[27] See Figure 5.3.16 of the Communications Monitoring Report 2014: Telecommunications Sector by the Canadian Radio-television and Telecommunications Commission. Available at: http://www.crtc.gc.ca/eng/publications/reports/PolicyMonitoring/2014/cmr5.htm#s5-3i

[28] For a detailed list of copyright-intensive industries in Canada, see table A 5.2 in the Annex.

[29] Statistics Canada (2013), Report titled: "Digital Technology and Internet Use, 2012", available at: http://www.statcan.gc.ca/daily-quotidien/130612/dq130612a-eng.pdf

[30] Statistics Canada (2011), Sound Recording and Music Publishing, available at: http://www.statcan.gc.ca/pub/87f0008x/87f0008x2013001-eng.pdf

[31] Entertainment Software Association of Canada (2013), Canada's Video Game Industry in 2013, Final Report, available at: http://theesa.ca/wp-content/uploads/2013/10/ESAC-Video-Games-Profile-2013-FINAL-2013-10-21-CIRC.pdf

[32] Book Net Canada (2013), The State of Digital Publishing in Canada 2013, available at: http://www.booknetcanada.ca/storage/research-education/state-of-digital-publishing/BNC_Research_TheStateofDigitalPublishinginCanada_2013.pdf

[33] See: http://www.ic.gc.ca/eic/site/crp-prda.nsf/eng/rp00863.html

[34] The summary can be found at: http://copyright.econsultation.ca/

[35] For a detailed list, see Annex 4 of the following document: http://www.wipo.int/export/sites/www/copyright/en/performance/pdf/econ_contribution_cr_ca.pdf

[36] More detailed info can be found at: http://www.egov.ufsc.br/portal/sites/default/files/7_0.pdf

[37] For more information see: http://www.propiedadintelectual.cl/Vistas_Publicas/publicContenido/contenidoPublicDetalle.aspx?folio=4183&idioma=0 (in Spanish). The relevant provisions are in articles 71A to 71S.

[38] See: www.propiedadintelectual.cl/Vistas_Publicas/publicNoticias/noticiasPublicDetalle.aspx?idNoticia=43733

[39] See: www.inapi.cl/protegetuidea/

[40] Harabi, N. (2004), Creative Industries: Case Studies from Arab Countries, Munich Personal RePEc Archive Paper No. 15628, Available at: http://mpra.ub.uni-muenchen.de/15628/; WIPO (2003), Performance of Copyright Industries in Selected Arab Countries, Available at: http://www.wipo.int/export/sites/www/freepublications/en/copyright/916/wipo_pub_916.pdf

[41] UNCTAD Secretariat Calculation based on United Nations Comtrade database data and IMF Balance of Payments Statistics and UNCTAD Calculation based on IMF Balance of Payments Statistics.

[42] UNESCO's *Arabic Language Day* press release.Available at: http://www.unesco.org/new/en/media-services/single-view/news/world_arabic_language_day/

[43] For detailed list of copyright-intensive industries in the EU see table A 5.3 in the Annex.

[44] Article 5; Directive 2001/29/EC.

[45] Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society

[46] See: http://ec.europa.eu/internal_market/copyright/docs/copyright-infso/greenpaper_en.pdf

[47] See: http://ec.europa.eu/internal_market/consultations/2013/copyright-rules/docs/contributions/consultation-report_en.pdf

[48] For a detailed list of copyright-intensive industries in Italy, see table A 5.3 in the Annex.

[49] For further information see AGCOM, https://www.ddaonline.it/

[50] In particular, CRTV, IMAE, Motion Picture Licensing Corporation Italy, SCF, IPAA and FAPAV are not associated in “Confindustria Cultura Italia”.

[51] This annex is based on Confindustria Radio Televisioni [CRTV], (2014).

[52] Additional information on legal online offer in Italy (eBook, film, music, B2b, TV, videogames) is available on www.mappadeicontenuti.it.

[53] For a detailed list of copyright-intensive industries in Japan, see table A 5.4 in the Annex.

[54] See: eMarketer, Global B2C Ecommerce Sales to Hit $1.5 Trillion This Year Driven by Growth in Emerging Markets; available at: http://www.emarketer.com/Article/Global-B2C-Ecommerce-Sales-Hit-15-Trillion-This-Year-Driven-by-Growth-Emerging-Markets/1010575 and eMarketer, B2C Ecommerce Climbs Worldwide, as Emerging Markets Drive Sales Higher available at: http://www.emarketer.com/Article/B2C-Ecommerce-Climbs-Worldwide-Emerging-Markets-Drive-Sales-Higher/1010004

[55] See ComScore, 2010 Mobile Year in Review; available at: http://www.comscore.com/Insights/Presentations_and_Whitepapers/2011/2010_Mobile_Year_in_Review .

[56] See http://www.cric.or.jp/english/csj/csj2.html.

[57] See http://www.cric.or.jp/english/qa/begin.html

[58] See: http://www.cric.or.jp/english/qa/begin.html#9

[59] Original name: 文化審議会著作権分科会

[60] See: http://www.bunka.go.jp/chosakuken/singikai/index.html (Japanese only).

[61] Japan Copyright Institute (2009), Copyright White Paper - A view from the perspective of copyright industries (vol.3), Japan Copyright Institute, Copyright Research and Information Center, August 2009; available at: http://www.cric.or.jp/english/doc/whitepaper_0908.pdf

[62] For a more exhaustive list see: http://www.cric.or.jp/english/csj/csj7.html

[63] For a detailed list of copyright-intensive industries in Korea, see table A 5.5 in the Annex.

[64] See endnote 1.

[65] See the part on enforcement.

[66] Article 101ter deals with limitations and exceptions only with respect to computer programs.

[67] This act has been revised several times in compliance with the TRIPS Agreement and the free trade agreements between Korea and the European Union (2011) and between Korea the United States (2012).

[68] For a detailed list of copyright-intensive industries in Poland, see table A 5.3 in the Annex.

[69] http://www.muzo.pl

[70] http://muzodajnia.pl

[71] http://iplay.pl

[72] http://www.empik.com

[73] http://www.soho.pl

[74] http://www.polishsound.com

[75] http://nuplays.pl

[76] http://www.mobila.pl

[77] http://www.papla.pl

[78] http://www.playthemusic.pl

[79] http://www.mood.pl

[80] http://www.windmobile.pl

[81] http://soundpark.pl

[82] http://www.megatotal.pl

[83] http://www.megatunes.pl

[84] See "Report on the functioning of the digital music market in Poland 2013"; available at: . http://www.prawoautorskie.gov.pl/media/raporty/Report_on_the_functioning_of_the_digital_music_market_in_Poland_2013.pdf

[85] Source - http://www.zpav.pl/aktualnosci.php?idaktualnosci=862

[86] Ustawa z dnia 4 lutego 1994 r. o prawie autorskim i prawach pokrewnych.

[87] Ustawa z dnia 27 lipca 2001 r. o ochronie baz danych.

[88] www.prawoautorskie.gov.pl

[89] See http://www.eschk.admin.ch/eschk/de/home.html

[90] More information can be found at: https://www.ige.ch/urheberrecht/agur12.html

[91] For a detailed list of copyright-intensive industries in the United Kingdom, see table A 5.6 in the Annex.

[92] See: https://www.gov.uk/apply-for-a-licence-to-use-an-orphan-work

[93] For points raised in public consultations around copyright see http://www.ipo.gov.uk/pro-policy/consult.htm

[94] The UK's position is set out at http://www.ipo.gov.uk/response-eucopyrightrules.pdf

[95] More information on the implementation of the report's recommendations in the area of copyright can be found here: http://www.ipo.gov.uk/types/hargreaves/hargreaves-copyright.htm

[96] For a detailed list see: http://www.ipo.gov.uk/types/copy/c-manage/c-ownerorg.htm

[97] For a detailed list of copyright-intensive industries in the United States, see table A 5.7 in the Annex.

[98] See ESA-USPTO (2010); Siwek-IIPA (2004).

99 Copyright Act of 1976, Pub. L. No. 94-553, 90 Stat. 2541 (1976). For a listing of amendments made subsequent to the passage of the 1976 Act see Copyright Office Circular 92 at: http://www.copyright.gov/title17/circ92.pdf.

100 For more information on the history of copyright revision in the United States in the context of the Internet revolution, see the Preface to Title 17, available at: http://www.copyright.gov/title17/92preface.html. *See also* Section II.B of the Department of Commerce Green Paper. on Copyright Policy, Creativity, and Innovation in the Digital Economy ("Green Paper), available at: http://www.uspto.gov/news/publications/copyrightgreenpaper.pdf

101 Pub. L. No. 105-304, 112 Stat. 2860 (1998). For a summary of the law passed in 1998, see the US Copyright Office Summary of the legislation available at: http://www.copyright.gov/legislation/dmca.pdf

102 17 U.S.C. §§ 302-305. Some of the more common circumstances are described in Copyright Office Circular 15a. And works made for hire under the 1976 Act are described in Circular 9. All Copyright Office Circulars are available at http://www.copyright.gov/circs/

103 17 U.S.C. § 701 (a).

104 17 U.S.C. § 701 (b).

105 17 U.S.C. §§ 101 (definition of "compilation") & 103. For more information see: http://www.copyright.gov/reports/dbase.html

106 17 U.S.C. §107. See also U.S. Copyright Fact Sheet FL-102, available at: http://www.copyright.gov/fls/fl102.html

107 More information on the Copyright Office's docket on orphan works and mass digitization can be found at http://www.copyright.gov/orphan. Additional background from the perspective of the U.S. Department of Commerce can be found in the Green Paper (pp 30-33).

108 See Circular 1, available at http://www.copyright.gov/circs/circ01.pdf, at page 7.

109 U.S. Department of Justice, Fourth Edition of the Department of Justice's Manual on Prosecuting IP Crimes, issued in 2013, available at http://www.justice.gov/criminal/cybercrime/docs/prosecuting_ip_crimes_manual_2013.pdf.

110 Maria A. Pallante, *The Next Great Copyright Act*, 2013 Manges Lecture at Columbia Law School, http://www.copyright.gov/docs/next_great_copyright_act.pdf.

111 To find more information on these and future hearings, *see* United States House of Representatives Judiciary Committee, Hearings, available at: http://judiciary.house.gov/index.cfm/hearings.

112 See USCO webpage on this study, including a link to the final report, available at: http://www.copyright.gov/docs/smallclaims/

113 See USCO webpage on this study, including a link to the final report, available at: http://www.copyright.gov/docs/resaleroyalty/

114 See USCO webpage on the right of making available study, available at: http://www.copyright.gov/docs/making_available/

115 See USCO webpage on the music licensing study, available at: http://www.copyright.gov/docs/musiclicensingstudy/

116 Links to all these ongoing efforts of the Copyright Office can be accessed on its homepage: www.copyright.gov.

117 Available at: www.uspto.gov/news/publications/copyrightgreenpaper.pdf

118 Green Paper at p. iii.

119 A discussion of private action and available remedies in the area of enforcement of copyrights can be found in the Green Paper (section III B 2).

120 http://www.copyrightinformation.org/wp-content/uploads/2014/05/Phase-One-And_Beyond.pdf

121 A discussion of private action and available remedies in the area of enforcement of copyrights can be found in the Green Paper (section III B 2).

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