

The entertainment industry, peer-to-peer and alternative remuneration schemes

Allan Rocha de Souza*

The entertainment industry and the music business specially have been waging a highly costing war against peer-to-peer (P2P) initiatives for the last decade. Sweden's Pirate Bay case, France's HADOPI law and the American Court decision of a US\$ 1.9 millions fine to an end-user alleged download of music are just a few recent cases to hit the news worldwide. The industry claims substantial losses due to file sharing. However, some studies have been released recently showing that this may not be the case, and that the losses claimed by the industry are grossly overestimated. On top of that such studies have shown a substantial share of the population practices file sharing, disapproves the criminalization of such practices and believes such trends are permanent social changes due to digital connectedness. Countries are testing different solutions, ranging from repression to alternative remuneration schemes. Some solutions imply a levy for private copying. So far, no country has envisioned a levy on fast internet connections – a must if you are to share files. Brazilian Copyright Act faces various challenges, including the adaptation to the digital environment, the demands of access for education or cultural purposes, the implementation of a supervising instance for the collective management agency. The objective of this paper is to analyze the viability of implementing an alternative remuneration system of broadband internet connection royalty fees. Methodologically it will recur to the legal doctrine and jurisprudence, official documents and reports, published social and economic research and data, in order to integrate into the proposed analysis the social demand for copyright legal change in Brazil, the industry's advocates arguments for compensation, the brazilian experience on collective management, the constitutional abiding norms on fundamental rights, the international legal obligations, the european experience on private copy, economics and social studies on file sharing. At the end the work is expected to come to a legally and economically workable model for implementation in Brazil.

*Professor and Researcher of Copyright Law at Universidade Federal do Rio de Janeiro (PPED – Public Policy, Strategies and Development Post-Graduation Program). Professor and Researcher of Civil Law at Universidade Federal Rural do Rio de Janeiro (UFRRJ).