

GUEST EDITOR'S INTRODUCTION

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The Society of Economic Research on Copyright Issues (SERCI) Annual Congress 2007 was hosted by the *Centre for British Studies at Humboldt University Berlin*. The congress was fully subscribed with well over 90 registered participants from 18 different countries. It attracted 48 academic researchers who presented 27 papers, four of which make up this special issue of the *Review of Economic Research on Copyright Issues*. The SERCI Annual Congress 2007 also featured a special session on the economics of copyright collecting societies. This session proved particularly interesting to policy-makers and practitioners and triggered a diverse debate.

The special session on “Copyright Collectives” exemplifies the success of the SERCI Congress 2007 in terms of the dissemination of research. Altogether, 47 professionals from the public or private sector attended the congress. Participants included representatives of the *European Commission*, the *World Intellectual Property Organization*, the *German Federal Ministry of Justice*, the *Federation of German Consumer Organizations*, a number of collecting societies and lobby organizations from the copyright industries, rights holders and journalists.

The guest speaker of the SERCI Annual Congress 2007 was **Richard G. Lipsey**, who hardly needs introduction as one of the most distinguished economists of his generation. The paper he delivered at the congress drew on his highly acclaimed recent work on general purpose technologies and long term economic growth. In this paper, Lipsey manages two tasks. First, he places the institution of copyright in a broad historic perspective on path-dependent economic development and technological change. Second, he locates the economics of copyright at the junction between two rival theoretical perspectives – “neoclassical” and “structuralist-evolutionary”. By and large, both these schools endorse the view that public policy should aim to promote the creation and diffusion of new knowledge. They differ on how this should be accomplished, however. Lipsey champions a structuralist-evolutionary perspective wherever the purpose is to develop policy implications. He reminds us that in the muddy waters of the real world, where the neo-classical ideal of a competitive equilibrium is never reached, we cannot take it for granted that any partial approximation of a perfect market will be welfare enhancing.

One cornerstone of the structuralist-evolutionary perspective is that the course of technological change is both fundamental to socio-economic developments and uncertain (not just risky). Accordingly, the access-incentive trade-off that copyright (and any other types of intellectual property) relates to has no optimal solution. Lipsey infers that formal models are limited as guidelines for policy and that policy needs to take account of specific circumstances. To him, adequate policy advice inevitably requires a mixture of theory, measurement and subjective judgment. What is more, Lipsey proposes that intellectual property systems inevitably entail market

distortions because they are more effective in some markets than in others. Following this argument, he favors consciously targeted policies to enhance creativity over attempts to create general, non-distortionary measures that are simply unattainable. The implicit question is whether copyright is a case in point of a policy that entails unintentional and unrecognized market distortions.

Lipsev's article could read as a challenge. For instance, many seminal contributions to the economics of copyright fulfill both criteria to fall within the scope of Lipsey's critical attention: first, they are based on formal theoretical analysis and a neo-classical perspective; second, they relate to issues of policy. Furthermore, Lipsey is dismissive of the contribution that cultural products in the realm of copyright make to socio-economic development. Nevertheless, Lipsey's paper should fall on fertile ground among the researchers that have pleaded for more – and more diverse – empirical research on copyright (including several contributors to recent issues of this journal). For its challenging and critical nature, Lipsey's article illuminates a range of fundamental issues in economics at large that the economics of copyright is bound to deal with.

The other three articles contained in this issue are a good illustration of the current spectrum of the economics of copyright. Paul Audley and Marcel Boyer contribute an empirical paper on what constitutes equitable remuneration. Rufus Pollock develops a formal-theoretical argument on the optimal level of copyright protection in the context of technological change and Antonina Bakardjieva Engelbrekt looks at copyright combining expertise on law with institutional economics.

Paul Audley and **Marcel Boyer** develop a method for determining the 'equitable remuneration' of rights holders for the use of copyrighted musical recordings in radio broadcasts. They translate the legal concept of equitable remuneration into the economic concept of an optimal price set by regulators in the absence of a functioning market. Audley and Boyer suggest that it is possible to gauge the value of music for radio stations by establishing the relative value of musical content and other content, for which the market price is known. They assume that the split of broadcasting time in musical content and talk reflects the point where the marginal contribution of these two types of content to advertising revenues is equal. They can thus estimate the "competitive value" of music on the basis of two central types of data: first, the programming decisions of radio stations as they allocate broadcasting time between musical content and non-musical content; second, radio station's expenditure on non-musical content. Applying their method to Canadian data, Audley and Boyer find that music may be seriously undervalued: according to their estimates, the price of musical content for radio stations under current arrangements is less than half of the optimal price.

Rufus Pollock extends formal models of copyright to study the optimal level of copyright strength over time. On the one hand, he investigates a situation in which it becomes less costly to produce and disseminate copyright works. He finds that falling costs of production are probably associated with a diminution in the optimal level of copyright strength. Where the costs of production fall both for 'originals' as well as for unauthorized copies at the same time, the overall effect on the copyright optimum is ambiguous. On the other, Pollock finds that when the stock of available creative works increases (which certainly seems to have been the case for a long period of time), the socially desirable level of copyright strength decreases. Pollock emphasizes that his results warn against further extensions and

reinforcements of the copyright regime, in particular because rights once granted are virtually impossible to revoke in most legal systems.

Antonina Bakardjieva Engelbrekt focuses on the decision-making processes that shape the copyright system. She explores the contribution that can be made by neo-institutionalist theories to explain the adaptive efficiency of the copyright system. Comparative institutional analysis puts stress on the differences between various types of stakeholders in their ability to participate in decision-making on policy, which might lead to biased policies. Additionally, three main arenas of decision-making – the market, the political sphere and the judiciary – are seen to differ in their susceptibility to lock-in, bias towards minority or majority interests and other inefficiencies. In this theoretical framework, Bakardjieva Engelbrekt describes the changeable set-up in which copyright policy is shaped. The specific adaptation process she documents concerns changes to the copyright system with the diffusion of digital copying technology. Her article exemplifies a law-and-economics approach in that it pays attention to the intricate details of the legal (as well as in her case the administrative and political) aspects of the copyright system, including developments in a number of European countries. Bakardjieva Engelbrekt's core contribution is to raise the following question: which balance between different decision-making arenas is best suited to accommodate for an efficient adaptation of the copyright system to the presence of digital copying technology?

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