The Economic Rationale Of Copyright

Robert M Hurt (1965)
Princeton University
(presented by Neil Page and Tom Westmacott)

Distribution Networks

• Copyright system is an integral part of the current Intellectual Property (IP) distribution networks, (eg Music and Film industries)

• Napster is distribution without copyright, unsustainable

• Book industry history still relevant today

The Economic Rationale of Copyright

• A copyright is a grant of the aid of state coercion to the creators of certain “intellectual products” to prevent for a period of years the “copying” of these products

Justifications for copyright:

• Right of creator or obligation of society toward him

• Promotion of the general well-being of society
The Economic Rationale of Copyright

Right of creator or obligation of society toward him:

- Natural property right of a person to the fruits of his creation
- Moral right to have his creation protected as an extension of his personality
- Right to a reward for his contribution to society

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Promotion of the general well-being of society:

- Does copyright induce creation of new goods?
- Are the new goods valued higher than those produced in absence of copyright system?
- Do administrative costs and frictions offset the benefits?

The Economic Rationale of Copyright - Conclusions

- “Natural rights in literary property do exist”
  - Support copyright system
- “Creation should be protected as extension of personality”
  - Tort law could provide protection
- “Society has an obligation to support authors”
  - Other (possibly better) methods could be used
- “Copyright system enhances economic welfare”
  - Inconclusive area of speculation that needs more investigation

Ethics of Copyright Law

- Essentially subjective judgement as to whether or not copyright is a natural right.
- Lack of democratic debate on the issue
Commercial and Moral Rights

• Author suggests that there is no automatic right to collect money from all who benefit

• Integrity rights can be protected by civil law

• Society can reward valued contributions with direct payments

Good for society?

• Cost to society of monopoly pricing

• Benefit to society of increased creativity

• Stronger copyright protection does not automatically benefit society as a whole – how long should it last?

Conclusions

• Current situation is influenced by both ‘natural right’ and ‘common good’ ideas

• Paper gives clear principles from which to evaluate copyright systems, according to preferred justifications

• However, free internet distribution is significantly different, and requires further consideration.