

Copyright is Even More Right in the Digital Age

by Sumner M. Redstone*

Thank you, George (Keyworth), and good evening.

It is a pleasure to be here in the mountains among other likeminded executives and academics and our friends from Washington – people like me who understand the value of getting above the tree line, so to speak, to focus on the longer term issues that can be more difficult to see from a vantage point crowded with day-to-day concerns.

The Progress and Freedom Foundation has really staked a leadership position along the digital frontier, and I've enjoyed the spirited discussions I've already had with many of you.

We are throwing around terms like intellectual property, copyright, fair use, digital rights management, long tail, net neutrality, interoperability, etc... and we are debating how all those words and the concepts behind them will play out over the next few years, not only because we like to hear ourselves talk....

....although that is certainly one reason.

We are really here ... certainly I am here... for two compelling reasons. One, because there are literally billions of dollars riding on this debate. And, two, because in discussing how best to approach the emerging digital world ...perhaps... we might get a glimpse of the future. Or at least a vision of what's in store.

To look at where we are going, it is vital that we understand how we got here.

So if you will indulge me, I would like to briefly look back down the hill.

A little over ten years ago, just after my company Viacom acquired Paramount in a hard-fought battle, I made a bold claim.

I told everyone who would listen and even those who wouldn't that "CONTENT IS KING."

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This was the mid-90s, mind you, when all the talk was of Distribution. Content vs. Distribution, that was the great debate and the big money was on distribution. Everyone was in a mad frenzy to access an on-ramp to the much-ballyhooed Information Superhighway.

Distribution is important, but what we at Viacom saw was that all the platforms and devices and channels and technologies in the world would be worthless – in our view – without content: stories and songs, programs and games, films and files.

It's not what it's on that matters... it's what's on it.

Ten years ago, the debate focused on the impact of digital technologies on distribution. Today, we are focused on the more fundamental topic... the impact of digital technologies on content. And how that content should be created, managed and distributed in a digital world.

CONTENT IS STILL KING.

And in the new digital-based economy that we all see on the horizon... the protection and nurture of that content is more vital than ever... which brings me to the thesis I want to argue today.

COPYRIGHT IS EVEN MORE RIGHT IN THE DIGITAL AGE.

And there are three reasons why, in my view:

- The Copyright industries are increasingly a major driver of the U.S. economy;
- Copyright compels creativity; and
- Copyright is fundamentally right for both creator and consumer.

First, consider the profound and growing positive impact of copyrighted content on the U.S. economy. Entertainment and other copyright exports account for about \$626 billion dollars annually or 6 percent of the U.S. gross domestic product. Content – the stuff of books and movies and video games – is as important to today's economy as autos, steel and coal were to yesterday's. And that is an asset and annuity that should be protected and nurtured.

I said "annuity" and that is a point worth examining, because there has been a lot of recent discussion about copyrighted content's "long tail" in a digital world.

The "long tail" is the multi-faceted array of revenue streams that any piece of content can now produce thanks to new digital platforms and the niche audiences they can reach. The dramatically collapsed costs of packaging, promotion, and distribution

that the Internet affords make music back catalogues, film libraries, and out-of-print books commercially viable properties once again.

Even if only one person a month buys a download of that Bollywood film or old Atari video game, it may be “worth” it from the content provider’s perspective and an indulged fantasy for the consumer.

It will not transform the economics of the media business any time soon – ours will continue to be a hit-driven enterprise – but it does demonstrate the potential value of the libraries we have built in television, cable, movies and even internet-only content. Certainly it is an interesting idea already in evidence in a number of areas where the internet has collided with traditional media distribution patterns.

This interesting idea is detailed in a book called “The Long Tail” written by Chris Anderson of Wired magazine, who, it should be noted, did not write it to defend copyright.

[And yet copyright defends him.]

This of course is a critical distinction that critics don’t ever seem to draw when they call for the death of copyright or the expansion of the public domain. Ideas cannot be copyrighted... only the exact expression of those ideas. In fact, Chris Anderson wrote his book because he was hoping that someone like me would pick it up and his idea would become part of the intellectual debate. That said, I am sure he would be unhappy if we all copied his book for free or I quoted it verbatim without acknowledgement.

Ideas are free... always have been... always will be.

However, the exact expression of those ideas – i.e., copyrighted content – has real and enduring value to return to Chris Anderson’s “Long Tail” argument... and my assertion.

That’s good news for content owners, whether they are individual musicians and writers or big media companies.

And if content is the sun around which all the distribution planets align themselves... then Copyright, the legal and moral position that the fruits of intellectual labor should be protected in order to encourage creative expression, is surely the gravity that binds it all together.

Which brings me to my second point.

COPYRIGHT IS EVEN MORE RIGHT IN THE DIGITAL AGE because Copyright compels creativity. It furnishes the incentive to innovate. Therefore, limiting the protection of copyrights threatens innovation.

Propose to a dairy farmer that the milk he sells become a free commodity available to all, and he will stop cultivating cows. Why buy the cow, when consumers can get the milk for free? That was the music industry a mere 3 years ago.

Three out of four online teens were downloading music from illegal peer-to-peer networks like Grokster, Kazaa and Morpheus in 2003... nearly half more than once a week.¹

The sales of singles plummeted 61 percent in one year. Album sales dropped 13 percent.²

All because a whole generation of media consumers came of age with the expectation that digital versions of catchy songs were a free good. They should not have to pay.

The result? Just as the dairy farmer stops collecting milk he can no longer sell at a reasonable profit, the nearly bankrupted record companies stopped cultivating new artists. The market for innovative musical expression stagnated...

...until, finally, a viable and legal option for downloading individual music files emerged in April of 2003: Apple's iTunes.

In just three years, consumers have downloaded more than half a billion songs from the iTunes site, contributing to the creation of a billion dollar online music market³.

And, once again, new artists like Flyleaf and Daniel Powter have a shot at stardom.

Copyright compels creativity by making it an economically viable career choice for artists.

Let me assure you that the boy jamming to his air guitar in his poster-plastered bedroom does not dream of being the next nobody on the Internet.

The aspiring great American novelist does not aspire to self-publish.

And the young filmmaker, posting his videos on YouTube, is hoping for better things. He wants to be the next Steven Spielberg... with all the exposure and celebrity and cash riches that entails.⁴

¹ 73% per GartnerG2 survey of approx. 1,000 adults (18+) and 1,000 teen (13-17) Internet sers in the U.S, July 2002. 40% more than once per week.

² Nielsen SoundScan Summary Report: National (December 29, 2002).

³ \$790 mm in digital music sales worldwide for first half of 2005 per IFPI (global music trade association), which includes music downloads, tracks bought over mobile networks and real music ringtones. Silicon.com, October 4, 2005. Strategy Analytics – a global research and consulting firm – predicts that broadband users in Europe and North America will spend over a billion dollars on online music in 2005 per release dated October 26, 2005.

⁴ Jessica E. Vascellaro, "Making a Buck Off Your Pet-Trick Video," Wall Street Journal, July 12, 2006.

And you can't get there without copyright... without some assurance that the money spent producing, marketing and distributing content is an investment rather than a donation.

Finally, at the risk of sounding naive, let me state the obvious: copyright is...well... right. It's inherently right... for both the creator and the consumer. It's the right thing to do. If you slave over a song, invest years in bringing a film to fruition, you ought to reap the rewards of that labor.

And if you enjoy that song or that film, it is right that you should compensate those responsible for creating it.

Now our role and obligation as media companies is to make an efficient market in that creative content... one that compensates the artist and gratifies the consumer at a price point that is reasonable and acceptable to both.

I would argue that's where we've fallen down as an industry. The record labels are a cautionary tale in that regard. They resisted tiered pricing... clinging to the \$17 CD while consumers clamored for access to individual song tracks at a reasonable rate.

Our obligation as an industry is to turn a responsive ear to consumers with a robust digital rights management system that accommodates tiered pricing:

One price for a single viewing of "Mission Impossible III"... and another for two, or three viewings... and another to burn a DVD that can be shared with friends. Let's let the consumer decide what they want and what they are willing to pay.

That's how you encourage people to do the right thing. We all intuitively know right from wrong. And even the infringers know that what they are doing is wrong. Copyright infringement is still theft... plain and simple.

COPYRIGHT IS RIGHT... AND EVEN MORE RIGHT IN THE DIGITAL AGE...

So, I have not changed my tune at all. **CONTENT IS STILL KING.** But at the risk of hitting a sour note, I must tell you, my friends, that the kingdom is under siege.

As we all well know, we are in what Dickens would call "the best of times and the worst of times." The very technologies that allow us to sell more content over more platforms all over the world, enable infringers to steal it... over more platforms all over the world.

Moreover, the very rules of the road that have allowed us to conceive fascinating and innovative creative vehicles for ideas and stories, are being questioned. With dubious logic and Wikipedic delight, a few academics and activists have seized the

bully pulpit to demonize the very concept of copyright as anti-progress and anti-consumer.

They propose that in place of copyright protection, we rely on “the honor system”, or digital “keys”, or compulsory licenses leveled on devices and on consumers by the government to supposedly compensate copyright holders – i.e., the folks with the talent – for the free and unrestricted use of their work.

They would have us believe that it is ok to build businesses that trade in copyright infringement.

This socialized...subsidized...scrutinized approach to intellectual property protection sounds like something that George Orwell might have envisioned. But, then again, even he included a little science with his fiction.

There, is, of course, one key ingredient missing from these proposed “antidotes” to copyright protection: An actual, viable business model.

In fact, theirs is the ANTI-BUSINESS MODEL. You don’t commoditize creativity. It’s bad business. It’s bad policy. It’s bad for the creator. It’s bad for the consumer.

This free-for-all approach they suggest certainly sounds appealing, and I am sure it reverberates well in an ivy-covered lecture hall. Hey, let’s face it: why buy the cow when the milk is free?

But in the real world – a global economy where ideas have real economic consequences – these populist arguments crumble under their own counterintuitive weight.

To those who champion the death of copyright as the only way to ensure a “free market in ideas,” I respond with these statements of utter certainty.

Instead of wealth and jobs and great content, you will strike a lethal blow to America’s greatest industry and the heart of its economy.

Instead of creating an outlet for free expression, you will generate a government bureaucracy to control it... a Department of Creative Repression, if you will.

And, instead of promoting creativity, you will stifle it.

And I know of what I speak. I am a businessman. I am a lawyer. And while I am not clairvoyant, I know more than most about what media consumers want, when and how they want it.

In fact, my career has been a case study in the art of reinvention, so I bristle when critics characterize me and my colleagues in the media industry as resistant to change... or the next new technology.

I can assure you that we are championing the charge onto the Internet at MTV Networks and CBS.

Today MTV has a total of 24 interactive broadband channels in live deployment across the world delivering hundreds of millions of video streams to consumers and hundreds of millions of unique visitors to advertisers. From TurboNick to Motherload to BoomBox, we are leaders in broadband content.

MTV creates more content for mobile phones the world over than any other company and consistently rates at or near the top of the “most downloaded content” list on iTunes.

MTV Networks have a growing position with casual gamers through Game Trailers, Xfire, Game One, Shockwave, Addictive Games dot com, and our own original games. We have a next-generation music play in URGE and are deep in the social networking space with FLUX in Japan, Italy and now the UK.

CBS just augmented its leadership position on the web with the launch of Innertube, a new advertising-supported broadband channel offering original and hit entertainment programming – for free – to Internet users.

Today, CBS distributes its content on Yahoo! and Google and iTunes and over various wireless carriers.⁵ The “most watched television network” is connecting with its viewers across as many platforms as possible.

I could go on and on. There’s our digital radio offerings at Infinity... interactive publishing at Simon & Schuster... Paramount’s partially owned MovieLink website offering films for download... our new investment in iFilm and Atom Films, destinations for user-generated short film content...

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But the system we have created to protect copyrighted content is not perfect.

Encryption methods are cumbersome and will likely never be 100% secure.

Enforcement efforts such as suing copyright infringers have limited impact and risk alienating legitimate consumers.

Filtering and watermarking require the cooperation of distribution intermediaries and raise privacy concerns.

⁵ Verizon V Cast... Amp’d Mobile.

And our critics are vocal and gaining traction in the policy debate, particularly overseas.

But, we're in a better place than we were last year... and last year, we were in a better place than the year before. Many, many bright minds across the media, consumer electronics, ISP, and regulatory arenas have collectively devoted hundreds of thousands of hours to devising the right solution to these thorny issue.

Meanwhile, we continue to create new content and mold our processes to work in the digital environment. Consider these examples of how the industry is creating win/wins for creators and consumers.

Many prime-time TV shows on the major networks are now available online for streaming the day after the network airs them on sites such as CBS.com and Apple's iTunes.

Sites like Atom Films makes indie films, games and other short-form content available for download to mobile platforms.

CinemaNow recently decided to permit the legal burning of downloaded movies, and the DVD community is extending secure managed recording to CSS-protected DVDs.

The barriers to sharing copyrighted content far and wide are crumbling as actual, viable business models emerge... models that appropriately value creativity, instead of commoditizing it.

Let me close on a positive note by issuing a call to action to my peers in the media industry.

First, let us declare that we are all digital companies. Let's not let inter-company disputes become attacks on IP. Whether you believe in the primacy of content like me, or come to the game from a technology background – whether you operate a portal or make portable devices – we are all in this together. In the long run we all must depend on strong intellectual property to survive and thrive. Piracy hurts everyone sooner or later and the only path to enduring success is protecting strong IP rights with the backing of the government and various regulatory bodies.

Exercise your responsibility to wipe out piracy. Don't sell tools that enable piracy to thrive. Exercise your responsibility to encourage the right policies in Washington. Don't free ride by authorizing services that are unlicensed and undermine the economic model that supported the creation of content in the first place.

Second, let us all pledge to experiment. People will try to steal our content, as always, but we will not let that deter us. We will not repeat the mistakes of the past and

wait for the perfect encryption methodology. We will forge ahead in providing the best, most innovative, creative content to the consumer.

Third, let us all reiterate our respect for the consumer. They have always been our first priority and will always be.

And, finally, let us all press our point of view that the proper role for government is to foster a free market in innovative, creative expression. It has an obligation to protect the content that artists create and that media companies distribute from those who would pirate it.

That obligation is embedded in our Constitution, which calls on Congress to give authors and inventors exclusive rights “to promote the progress of science and useful arts.”⁶

We are digital companies. We pledge to experiment. We will always respect the consumer. And we will continue to work for the protection of intellectual property.

That is my digital manifesto. And at its core is respect for and protection of intellectual property. And that is why...

COPYRIGHT IS EVEN MORE RIGHT IN THE DIGITAL AGE.

Thank you.

The Progress & Freedom Foundation is a market-oriented think tank that studies the digital revolution and its implications for public policy. Its mission is to educate policymakers, opinion leaders and the public about issues associated with technological change, based on a philosophy of limited government, free markets and civil liberties. The Foundation disseminates the results of its work through books, studies, seminars, conferences and electronic media of all forms. Established in 1993, it is a private, non-profit, non-partisan organization supported by tax-deductible donations from corporations, foundations and individuals. PFF does not engage in lobbying activities or take positions on legislation. The views expressed here are those of the authors, and do not necessarily represent the views of the Foundation, its Board of Directors, officers or staff.

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⁶ “We Aren’t All Pirates,” L.A. Times, July 10, 2006.