

## Legal Regulation & Education: Doing the Right Thing?

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### Copyright Infringement and Internet Perspectives

The context of this paper falls under the highly controversial issues surrounding online copyright infringement. In particular, the focus falls on the tension of perspective created in the application of copyright law to the virtual realm of the internet, between the users and the creative industry as well as the law.

The copyright wars is an unsettled battle between the creative industries and the public, facilitated by the development of the internet, in particular online technologies that facilitate the copying and sharing of copyright works.

Commercial copyright owners argue that the use of copyright content without license or payment continues to destroy the creative industry, causing billions of loss in revenue. Adrian Strain and Alex Jacob from the International Federation of the Phonographic Industry (IFPI) claim that "the fundamental problem of the music market place remains as true as ever: why pay for music when you can get it illegally free?"

There have been a variety of tactics employed by the creative industry; such as litigating against file sharing platforms, individual file sharers, seeking Internet Service Providers (ISPs) technological intervention, educational and emotive campaigning.

However, file sharing continues to escalate. The distance between those disseminating creative works and the internet users is ever expansive. This was demonstrated in the continuing case of Pirate Bay. The High Court ordered 5 major UK ISPs to ban internet traffic to the peer to peer website. Subsequently, however, user visits to the website actually increased by a margin of over 12 million extra unique visitors.

Pirate Bay exemplifies a discontent between the law and the users, as well as the limitations that legal and technological mechanisms alone can be expected to reconcile this conflict.

The industry has claimed some progress through technological solutions such as blocking and adaptive market strategy. However, as technology becomes more advance, increasingly accessible and culture becomes further submerged into the virtual world, the proportionality of legal to illegal activity continues to increase.

Furthermore, evidence suggests that there is a significant correlation between age and willingness to download illegally. The younger population do not have moral or ethical concerns about the practice of copyright infringement, which is now recognised as a social norm. Therefore, it can be forecast that as generation's progress, the attitude will continue to decline and infringement to escalate.

There is a need, therefore, to better understand this divide.

One approach towards these questions is the consideration of the different perspectives taken when considering what the facts are in relation to the internet. The Internet's facts alter depending on the consideration of the physical reality or virtual reality.

The virtual reality, understands the internet from the perspective of an Internet user who perceives the virtual world of cyberspace as equivalent to the physical world. This is known as the internal perspective.

Alternatively, an external perspective adopts the viewpoint of an outsider concerned with the functioning of the network in the physical world rather than the perceptions of a user. From this point of view the facts are understood on the physical reality of how the network operates.

Subsequently, questions are raised as to whether there is a conflict between perspectives on the facts of the internet between the users and creative industry and the law. Such as, when judges apply the law to the internet, in relation to digital copyright infringement, do they take an internal or external perspective? Does this conflict with the users understanding?

For example the courts have considered that a computer making an autonomous temporary copy can amount to "copying" as described in the statutory law. This could therefore conflict with the end-user's external perspective of the internet, where even if they understand the technical functions of the internet they do not perceive there to be a copy as in the physical world.

Therefore, considering the issues of online copyright infringement from the view point of conflicting perspectives on the facts, could bring forward different questions within the debate. For example, should there be a consistent perceptive approach or should courts choose a perspective and differentiate between behaviours?