



## INTELLECTUAL PROPERTY THEFT: A THREAT TO U.S. WORKERS, INDUSTRIES, AND OUR ECONOMY

The motion picture, television, theater, and music industries are vital sectors of the U.S. economy. They employ millions of U.S. workers, generate revenues for local businesses and communities, and are among the all-too-few U.S. industries that generate substantial trade surpluses in the midst of growing U.S. trade deficits. The theft or piracy of copyrighted films, television shows, theatrical productions, and music costs the U.S. entertainment industries billions of dollars in revenue each year. That loss of revenue hits directly at bottom-line profits and those who earn their living in these industries. This fact sheet examines the consequences of intellectual property (IP) theft for the entertainment industries, their workers, and those in related industries.

### **Creative Workers and Copyright**

Creative workers rely on copyright protection and royalty or residual payments to make a living from their artistic creations and performances. Even creative workers who are paid for work for hire ultimately rely on the copyright protections of the organizations that pay them. Technology is rapidly changing the way in which consumers enjoy arts and entertainment. Performing and craft professionals in the arts, entertainment, and media, and their unions must work to insure that these professionals are properly compensated.

- *Copyright* is important to creative workers because it grants certain rights and protections in their artistic creations. *Copyright* provides the basis on which creative workers are compensated for the use of their work.<sup>1</sup>
  - Copyright is “a form of protection provided by the laws of the United States to the authors of ‘original works of authorship,’ including literary, dramatic, musical, artistic, and certain other intellectual works.”<sup>2</sup> This protection is secured automatically when the work is created and endures for a certain term.<sup>a</sup> Under copyright laws, the holder of the copyright has the exclusive rights to do and authorize others to<sup>3</sup>:
    - Reproduce the work in copies;
    - Prepare derivative works based on the original work;
    - Distribute copies of the work for public sale or other transfer of ownership, or by rental, lease or lending; and
    - Display or perform the work publicly or in the case of sound recordings, to perform the work publicly by means of digital audio transmission.

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<sup>a</sup> In the case of a work of authorship of an individual, the term under the current law is life of the author plus 70 years; in the case of a work made for hire the term is 95 years from first publication or 120 years from creation, whichever is shorter.

- Copyright gives the author control over intellectual property, including the right to distribute a copyrighted work. The copyright holder is able to collect money by licensing others to reproduce, make derivative works from, distribute, perform, or display the copyrighted material.
- Creative workers and entertainment professionals often earn a living on copyrighted materials by receiving residual payments. Residuals are “compensation paid for the reuse of” a performer or writer’s work in a produced material, like a motion picture, television program, or sound recording.<sup>4</sup> When an entertainment professional receives credit on a produced material, the entertainment professional may be entitled to compensation if the material is used beyond its original exhibition. For example, residual payments begin for an accredited worker on TV production, “once the show starts re-airing or is released on video, pay television, broadcast TV or basic cable.”<sup>5</sup>
- Creative workers also earn a living on copyrighted sound recordings through the receipt of royalties from the sale and distribution and the public performance of their creative work.
- Unfortunately, not all countries respect copyright laws. To improve copyright protections around the world, the United Nations (UN) created a specialized agency, the World Intellectual Property Organization (WIPO) to promote intellectual property protection through greater cooperation and collaboration among states and international organizations.<sup>6</sup>

### **The Entertainment Industries: Economic Powerhouses**

The entertainment industries are a thriving, if often overlooked, part of the U.S. economy.

- In 2007, the U.S. Department of Commerce reported that performing arts, spectator sports, museums, and related activities were a value added to the U.S. economy, generating \$61.8 billion (0.4% of Gross Domestic Product [GDP]) in surplus trade amid growing U.S. trade deficits.<sup>b</sup> The performing arts, spectator sports, museums, and related activities employed 562,000 full and part-time employees in 2008.<sup>7</sup> That same year, there were 822,000 people engaged in the production of performing arts, spectator sports, museums, and related activities.<sup>8</sup>
- Nationally, there are 668,267 businesses in the U.S. involved in the creation or distribution of the arts. They represent 4.05% of all businesses. They employ 2.9 million people, or 2.18% of all U.S. jobs.<sup>9</sup>
- The entertainment industries are a huge employer. In 2009, there were over 2.7 million people employed in arts, design, entertainment, sports, and media occupations.<sup>10</sup> This does not include the many persons employed in retail and other “downstream” or “secondary” industries (movie rental stores, music stores, etc.) that also depend on the entertainment industries.
- In addition to being a thriving part of the U.S. economy, the entertainment industries are also some of the most densely unionized industries in the U.S. The largest labor federation in the United States, the American Federation of Labor–Congress of Industrial Organizations (AFL-CIO), has many unions that represent professionals in a host of capacities in the

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<sup>b</sup> The U.S. Department of Commerce, Bureau of Economic Analysis determines the “value added” to the U.S. economy as an industry’s “gross output (which consists of sales or receipts and other operating income, commodity taxes, and inventory change) minus its intermediate inputs (which consist of energy, raw materials, semi-finished goods, and services that are purchased from domestic industries or from foreign sources).”

entertainment industries. Among them are Actors' Equity Association (AEA), the American Federation of Musicians (AFM), the American Federation of Television and Radio Artists (AFTRA), the American Guild of Musical Artists (AGMA), the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts (IATSE), the International Brotherhood of Electrical Workers (IBEW), the Office and Professional Employees International Union (OPEIU), the Screen Actors Guild (SAG), and the Writers Guild of America, East (WGAE).

### **Supporting Professionals, Supporting Communities: Motion Picture and Television Production**

Motion picture and television production has an economic impact that extends far beyond what is seen onscreen and offers a concrete example of broad economic benefits. The U.S. motion picture and television industry is a jobs engine nationwide, employing millions of U.S. workers, and supporting numerous small businesses and entrepreneurs.

- The U.S. motion picture and television industry is an important contributor to the U.S. economy, with a \$13.6 billion trade surplus and employing 2.5 million people. The motion picture and television industry employs not only actors, writers, and craftspeople on set, but also generates vital secondary industries, like movie theater staff, video rental operations, costume dry cleaners, and on-set caterers.<sup>11</sup>
- In 2007, the movie and television industry made \$38.2 billion in payments to U.S. vendors, suppliers, small businesses, and entrepreneurs. That same year the industry paid \$41.1 billion in wages to American workers.<sup>12</sup>
- The economic impact of the motion picture and television industry extends far beyond California and New York. All fifty states and the District of Columbia have activity in film and television production, providing jobs and business to local communities.<sup>13</sup>

### **Defending U.S. Jobs and Benefits Requires Combating Piracy**

The broad reach of the entertainment and copyright industries<sup>c</sup> means that digital theft and counterfeiting hurt average American workers and the U.S. government.

A new report by the Government Accountability Office (GAO), *Intellectual Property: Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods*, reviews the literature measuring the effects of IP theft<sup>d</sup> on a range of goods and services, from media to pharmaceuticals. The GAO finds that data measuring the economic impacts of piracy are difficult to obtain and hard to quantify; however, it is clear that IP theft has significant negative effects on consumers, the arts and entertainment industries, as well as the government.

- The GAO finds that IP theft and counterfeiting in some industries (pharmaceuticals, for example) may negatively affect consumers by compromising their health and safety, as well as provide the consumer with lower quality goods.

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<sup>c</sup> Here the term "copyright industries" refers to the industries that produce the "core" copyright products: motion pictures, sound recordings, packaged software, and video games. These industries rely heavily on copyright or patent protection to generate revenue, employ and compensate workers and contribute to real growth. See Siweck, Steve, *The True Cost of Copyright Piracy to the U.S. Economy*.

<sup>d</sup> For the purposes of this Fact Sheet, we use "intellectual property theft" or "IP theft" to refer generally to infringements of copyrights and patents, whether through digital theft or counterfeiting. We use "digital theft" and "piracy" interchangeably to refer to stealing electronically recorded or transmitted content; by "counterfeiting," we generally refer to making and selling imitations of physical goods without authorization.

- The GAO also found that the arts and entertainment industries incur losses on sales of products like CDs and DVDs as a result of IP theft and that the low quality of pirated goods can damage a brand or artist's value and image. Arts and entertainment businesses incur increased costs trying to protect intellectual property which, coupled with a loss of sales from piracy, decreases the incentives for companies to invest in research and development and new production.
- The government is also negatively affected by IP theft. The government is responsible for the cost of enforcing all U.S. intellectual property laws while losing tax revenue that would have been generated by the sale of non-pirated goods.

The GAO study finds that no single calculation is effective for accurately measuring revenue and job loss as a result of copyright infringement and counterfeit production. The estimates developed by several organizations monitoring IP theft, however, offer a picture of the negative impact that these practices have on the motion picture, television, theatre, and music industries and the professionals who work in them. While these studies may have flaws, they provide a sense of the magnitude of the economic effects of intellectual property theft.

- In 2005, the Organization of Economic Co-operation and Development (OECD) estimated that the international trade in counterfeit and pirated products was approximately \$200 billion.<sup>e</sup> This estimate does not include domestically produced and consumed counterfeit and pirated products or those pirated products distributed via the Internet. The OECD reports that if these items were calculated the total magnitude of counterfeiting and digital theft worldwide would be several hundred billion dollars more.<sup>14</sup>
  - To put these numbers in perspective, in 2005 the international trade of counterfeit and pirated goods (approximately \$200 billion) was larger than the national GDP of 150 countries.<sup>15</sup>
- The U.S. Trade Representative estimated that the U.S. economy lost between \$200 and \$250 billion in 2005 due to piracy.<sup>16</sup>
- IP theft has a negative effect on employment in all copyright industries. It is estimated that the U.S. economy loses 373,375 jobs annually due to piracy.<sup>17</sup>
  - In addition, U.S. workers lose \$16.3 billion in earnings annually as a result of copyright piracy. Broken down, \$7.2 billion in earnings would have gone to workers in the copyright industries or in downstream retail industries and \$9.1 billion in earnings would have gone to workers in other U.S. industries.<sup>18</sup>
- The music industry has been deeply hurt by the increase in recent years of digital sound recording theft. In 2005, the U.S. economy lost an estimated \$12.5 billion in total output due to music piracy.<sup>19</sup>
  - Music piracy cost the U.S. economy an estimated 71,060 jobs in both the sound recording industry and downstream retail industries. In addition, music piracy cost U.S. workers \$2.7 billion in earnings.<sup>20</sup>

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<sup>e</sup> This estimate includes all pirated materials, not only films, television shows, and music recordings. The figure is based on the customs value of merchandise; in most instances this is the same as the transaction value appearing on accompanying invoices as goods are transported internationally for sale. Customs value also includes the insurance and freight charges incurred in transporting goods from the economy of origin to the economy of importation. Further information on valuation is available from the UN Comtrade Database (<http://comtrade.un.org/>).

- Music piracy also results in lost tax revenue for U.S. federal, state, and local governments totaling an estimated \$422 million in 2005.<sup>21</sup>
- The International Federation of the Phonographic Industry (IFPI) estimated in 2005 that 1.2 billion pirated CDs were purchased that year and, even at reduced pirate prices, the worldwide pirated CD market could be valued at \$4.5 billion.<sup>22</sup>
- Like the music industry, the motion picture industry has been adversely affected by piracy. In 2005, worldwide motion picture piracy had an estimated loss of \$20.5 billion in output annually.<sup>23</sup>
  - Motion picture piracy has an effect on employment both in the motion picture industry and in industries related to or that do business with the motion picture industry. In 2005, piracy in motion pictures cost the U.S. economy an estimated 141,030 jobs. Employees in motion picture and related industries lost an estimated \$1.903 billion in earnings as a result of motion picture piracy. About two-thirds of these losses were for U.S. workers in industries outside of the motion picture production and retail industries.<sup>24</sup>
  - Losses from motion picture piracy also result in lower tax revenues for state and local governments. It is estimated that in 2005, motion picture piracy cost U.S. federal, state and local governments \$837 million in tax revenues.<sup>25</sup>
- No part of the entertainment industries is immune from the adverse impact of intellectual property theft. Live theatre, for example, has begun to be “cinecast” or shown in movie theatres to expand the number of audiences able to take in stage performances. This then opens stage productions to the same tactics IP thieves use to pirate motion pictures, which, again, results in a loss of income to the producers, artists, and craftspeople. While the piracy of captured live performance is unlikely to shut down the live performance, it still has an impact on the earnings of all involved.

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<sup>1</sup> Library of Congress, United States Copyright Office, 2008. *Copyright Basics*. (United States Copyright Office Publication No. 1.0708). Retrieved from <http://www.copyright.gov/circs/circ1.pdf>.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> Writers Guild of America, West, 2010. *Explanation of Disbursement of Residual Payments after Death*. Retrieved from [http://wga.org/uploadedFiles/who\\_we\\_are/departments/exp\\_resid.pdf](http://wga.org/uploadedFiles/who_we_are/departments/exp_resid.pdf).

<sup>5</sup> Screen Actors Guild, 2010. *Residuals FAQ* (Issue Brief). Retrieved from <http://www.sag.org/content/residuals-faq>.

<sup>6</sup> World Intellectual Property Organization, 2010. *About WIPO*. Retrieved from [http://www.wipo.int/about-wipo/en/what\\_is\\_wipo.html](http://www.wipo.int/about-wipo/en/what_is_wipo.html).

<sup>7</sup> Department of Commerce, Bureau of Economic Analysis, May 25, 2010. *Gross-Domestic Product by Industry Accounts, Full-Time and Part-Time Employees By Industry*. Retrieved from [http://www.bea.gov/industry/gpotables/gpo\\_action.cfm?anon=92891&table\\_id=25735&format\\_type=0](http://www.bea.gov/industry/gpotables/gpo_action.cfm?anon=92891&table_id=25735&format_type=0).

<sup>8</sup> Department of Commerce, Bureau of Economic Analysis, May 25, 2010. *Gross-Domestic Product by Industry Accounts, Persons Engaged in Production by Industry*. Retrieved from [http://www.bea.gov/industry/gpotables/gpo\\_action.cfm?anon=92891&table\\_id=25733&format\\_type=0](http://www.bea.gov/industry/gpotables/gpo_action.cfm?anon=92891&table_id=25733&format_type=0).

<sup>9</sup> Americans for the Arts, 2010. *Congressional Arts Handbook: Facts and Figures*. Retrieved from [http://www.americansforthearts.org/pdf/get\\_involved/advocacy/congressional\\_arts\\_handbook/information/2010/facts\\_figures2010.pdf](http://www.americansforthearts.org/pdf/get_involved/advocacy/congressional_arts_handbook/information/2010/facts_figures2010.pdf).

<sup>10</sup> U.S. Department of Labor, Bureau of Labor Statistics, 2010. *Current Population Survey, Employed and experienced unemployed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity, Annual Averages 2009, Table 11*.

- <sup>11</sup> Motion Picture Association of America, April 2009. *The Economic Impact of the Motion Picture & Television Industry on the United States* (Issue Brief). Washington, D.C.: MPAA.
- <sup>12</sup> *Ibid.*
- <sup>13</sup> *Ibid.*
- <sup>14</sup> Organization for Economic Co-operation and Development, 2007. *The Economic Impact of Counterfeiting and Piracy* (Executive Summary). Retrieved from <http://www.oecd.org/dataoecd/13/12/38707619.pdf>.
- <sup>15</sup> *Ibid.*
- <sup>16</sup> Treverton, G.F., Matthies, C., Cunningham, K.J., Goulka, J., Ridgeway, G., & Wong, A. *Film Piracy, Organized Crime and Terrorism*, 2009. Retrieved from RAND Corporation website: [http://www.rand.org/pubs/monographs/2009/RAND\\_MG742.pdf](http://www.rand.org/pubs/monographs/2009/RAND_MG742.pdf).
- <sup>17</sup> Siweck, S.E. *The True Cost of Copyright Industry Piracy to the U.S. Economy* (Report No. 189), October 3, 2007. Retrieved from the Institute for Policy Innovation website: <http://www.ipi.org>.
- <sup>18</sup> *Ibid.*
- <sup>19</sup> Siweck, S.E. *The True Cost of Sound Recording Piracy to the U.S. Economy* (Report No. 188), August 21, 2007. Retrieved from the Institute for Policy Innovation website: <http://www.ipi.org>.
- <sup>20</sup> *Ibid.*
- <sup>21</sup> *Ibid.*
- <sup>22</sup> Siweck, S.E. *The True Cost of Copyright Industry Piracy to the U.S. Economy* (Report No. 189), October 3, 2007. Retrieved from the Institute for Policy Innovation website: <http://www.ipi.org>.
- <sup>23</sup> Siweck, S.E. *The True Cost of Motion Picture Piracy to the U.S. Economy* (Report No. 186), September 29, 2006. Retrieved from the Institute for Policy Innovation website: <http://www.ipi.org>.
- <sup>24</sup> *Ibid.*
- <sup>25</sup> *Ibid.*

For further information on professional workers, check the DPE website: [www.dpeaflcio.org](http://www.dpeaflcio.org).

*The Department for Professional Employees, AFL-CIO (DPE) comprises 23 AFL-CIO unions representing over four million people working in professional and technical occupations. DPE-affiliated unions represent: teachers, college professors and school administrators; library workers; nurses, doctors and other health care professionals; engineers, scientists and IT workers; journalists and writers, broadcast technicians and communications specialists; performing and visual artists; professional athletes; professional firefighters; psychologists, social workers and many others. DPE was chartered by the AFL-CIO in 1977 in recognition of the rapidly-growing professional and technical occupations.*

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