PASS THE HAT: VOLUNTARY PAYMENT AS A COMPLEMENTARY MODEL FOR MUSIC COPYRIGHT

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ABSTRACT

It is hardly disputable that the digital revolution has dramatically challenged the traditional framework of copyright law, practice and enforcement in the music industry. Various models have been offered in the past in order to address what has become recognized as the crisis of the music industry in the digital age.

In this Article, I advance a model that can protect artists and promote music creativity in a digital age: facilitating voluntary payments by users to recording artists via digital services. Practically, digital services, whether legal or illegal, will enable users to make donations directly to the artists who perform the music, regardless of the copyright-holder who is usually a record-label. This model would operate alongside the existing copyright system and is not intended to supersede it.

This model is advantageous on multiple levels. First, it internalizes the understanding that the core challenge of the music industry in this day and age is the inability of artists to earn a living from creating music, rather than ensuring the functioning of the mechanism of music creation and dissemination as it used to be. Accordingly, in order to fulfill the constitutional goal of copyright—to promote creativity—a model must address first and foremost the economic interests of individual artists.

Second, this model has the potential to be significantly cost-effective. While the costs associated with this model are extremely low, its prospective effectiveness is very high, primarily in light of prevalent norms and practices of voluntarism and the magnitude of current online music consumption. Furthermore, this model is feasible and practical. Contrary to other models, it does not require industry-wide regulation and can be employed in an autonomous, dynamic and modular way.

Overall, this model offers a practical and realistic system which has the potential to both enlarge the pie of resources that flow into the music industry as well as distribute the pie more equitably among the related stakeholders without demolishing the existing system.