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MA ARTS CULTURE AND HERITAGE MANAGEMENT: RESEARCH REPORT

THE INTERNET AND SOUTH AFRICAN MUSIC: The impact of the Internet on the protection of South African recording artists' copyrights and consumers' fair use rights.

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ABSTRACT

The impact of the Internet on the protection of South African recording artists' copyrights and consumers' fair use rights can be defined by two opposing theories, the 'value commons' and the 'creative commons'. The 'value commons' supported primarily by record labels in the music industry, advocates for stronger policy enforcement, Digital Rights Management (DRM) and a universal pay-per-view, pay-per-use and pay-per-listen system. From an artist and consumer perspective, this 'value commons' approach is not the best system as it works to benefit record labels that, due to the way recording contracts are constructed, own the music created by signed or commissioned artists, and require that all costs for making the album be returned to the company, meaning that 85% of artists are actually in debt to their record label after the records are released. The 'creative commons', or the 'information commons', supported by recording artists and consumers using Internet, advocates for the Internet to be treated as a platform for promotion and knowledge sharing. This research report argues for a balance between the 'value commons' and the 'creative commons' theories, promoting a balance between policy and technology systems to protect artists' copyrights, but also considers consumers' fair use rights.

Technology and new media has a large role to play in the dissemination of information worldwide. In this 'global village', as termed by Marshall McLuhan (1992), where the speed of exchange of goods and

knowledge has increased and transcends geographical borders, artists and consumers can share and trade information immediately and at almost no cost. Although South Africa may be perceived as being unprepared for the shift from the traditional music industry to the digital online music industry, resulting issues of digital piracy, online copyrights and fair use rights are a growing concern for the music industry and national government.

National policy is relevant in this digital realm in its ability to legislate the protection of artists' copyrights, so long as it does not impede on market liberalisation and consumer fair use rights. International authorities, national government, artists and consumers are all responsible for ensuring the protection of artist and consumer rights. In South Africa, however, ineffective policy and enforcement and management systems, national and industry politics, limited finances and underdeveloped technology all negatively impact the development of online policy.

It is apparent that placing monetary values on intangible online goods is difficult. Action needs to be taken to develop the 'value commons' and protect the 'creative commons'. Economics, politics and the 'digital divide' are a few of the factors preventing action and the move toward fair global information sharing and trading. This research report will review online problems such as piracy, pricing and rights protection and attempt to define new models, systems and policies to protect South African recording artists' copyrights and consumers' fair use rights.