

Ophavsrettens betydning for digital innovation og vækst

Folketingets Kulturdvalgs høring

24. september 2014

Peter Schønning

Mit oplæg

- Relationship between copyright and digital innovation and growth
- Should we have a copyright review in Denmark?

Ophavsretten i en nøddeskal

- Copyright secures that media, publishers and producers can invest in more creative content and jobs in the media and creative industries.
- Copyright secures that creators receive fair remuneration so that they can live on their art
- Copyright secures that the general public has a diverse and independent supply of high quality books, films, art, music etc.

Spørgsmål til høringen

”Er for eksempel det danske ophavsretssystem gearret til at tillade nytænkningen i en mere og mere digital verden?”

Svar

- TDC Play (Danmark)
- Svensk Spotify, norsk WiMP (nordisk retsenhed på ophavsretsområdet)
- Mofibo og e-bogsaftaler mellem forlæggere og biblioteker

Vækstplan for kreative erhverv:

”Derudover er ophavsret og IP-rettigheder af særlig betydning for de kreative virksomheder, da deres produkter ofte bygger på unikke designs og kreative løsninger. Det er derfor vigtigt, at virksomhederne i de kreative erhverv har det bedste mulige kendskab til mulighederne for at beskytte deres produkter i Danmark og internationalt, og at udviklingen af kommercielt bæredygtige tjenester og forretningsmodeller for digitalt, kreativt indhold styrkes.”

Ophavsrettens bidrag til vækst og job

- De kreative industrier beskæftiger 7,4 millioner mennesker i EU
- De kreative industrier i Europa omsætter årligt for over 500 milliarder euro

Musikstatistik 2013

OMRÅDE	OMSÆTNING (MIO. KR.)	ÅRSVÆRK
• Livemusik	4.190	2.679
• Indspillet musik	2.540	1.624
• Øvrig musik	274	174
• Samlet	7.005	4.478
• Heraf eksport	540	345

En sammenligning

- Copydan: I 2013 samlet vederlag på over 1,2 mia. kr.; bidrager til ny kulturproduktion og arbejdspladser
- WhatsApp solgt til Facebook for \$ 19 mia.; 50 ansatte

Robert Levine:

- The new middlemen on the Internet, e.g. Google and YouTube, benefit from professional content created by others without investing in creators and without generating many jobs.
- Companies can make as much money aggregating online journalism as they can creating it – with no production costs.

USA-EU pengestrøm

US:

IT infrastructure

EU:

IT content

IT content advertisement income (EU)



IT infrastructure companies (US)

UK Commons Culture Media and Sport Committee, september 2013:

“The Commons Culture Media and Sport Committee recognizes the extraordinary success of the UK’s creative industries but warns that this may be jeopardized by any dilution of intellectual property rights and the failure to tackle online piracy. The Committee also "strongly condemns" the "notable" failure of Google in particular to tackle access of copyright infringing websites through its search engine.”

UK Commons Culture Media and Sport Committee, september 2013: (fortsat)

“Following all the evidence we have received, we think Hargreaves is wrong in the benefits his report claims for his recommended changes to UK copyright law. We regret that the Hargreaves report adopts a significantly low standard in relation to the need for objective evidence in determining copyright policy. We do not consider Professor Hargreaves has adequately assessed the dangers of putting the established system of copyright at risk for no obvious benefit.”

UK's copyright reform og dansk lov

Undtagelse indført i UK's lovgivning 2014: Findes allerede i den danske ophavsretslov (OHL)?

Privatkopiering (private copying)	Ja (OHL § 12)
Citatret (quotation)	Ja (OHL § 22)
Forskning (research)	Ja (OHL § 12, § 16 a og § 75 c, stk. 6)
Uddannelse (education)	Ja (OHL § 18, § 21 og aftalelicens i § 13)
Biblioteker (libraries)	Ja (OHL §§ 16-16 b)
Arkiver (archives)	Ja (OHL § 16, § 16 a og § 27, stk. 2)
Parodi (parody)	Nej, men anerkendes i et vist omfang i retspraksis
Handicappede (disability)	Ja (OHL § 17)
Offentlig forvaltning (public administration)	Ja (OHL §§ 9, 26, 27 og 28)

Spørgsmål til evt. reformproces

- What is the exact problem?
- If there should be a concrete problem: Would other methods than legislation be a better remedy, e.g. licensing?
- If legislation is deemed necessary: Would it be more appropriate to scrutinize and solve the problems in a wider EU context?

Thank you!

Tak!

Peter Schønning

ps@ophavsretsadvokaten.dk