An Analysis of the Effects of Copyright Law on the Creative Autonomy of the Performing Author in the Nigerian Popular Music Industry

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Abstract

Business in the popular music industry appears to be dictated by market demands for certain types and styles of songs. However, the world record levels of success of songs like K-pop artist Psy’s "Gangnam Style" show that commercial success may not necessarily require strict adherence to industry formulae. In this case, K-pop artists and critics assert that "Gangnam Style" is not representative of true K-pop, and music critics in various parts of the world have been baffled by its global success despite the fact that many of its fans do not understand the lyrics of the song. It therefore appears that there is some divergence between music industry forecasts and the actual commercial success of this song.

This suggests a need to assess whether dependence on market dictates affects not only the creative autonomy of the author, but deprives the society of new creative works in both an economic and cultural sense. This could happen if the author is prevented from creating and making available to the public, works that truly represent their individuality. The paradox is that the traditional role of copyright law has been to prevent such an outcome. Copyright, as opposed to the system of patronage, is extolled to encourage authorial independence in both a financial and creative sense. Moreover, philosophical justifications appear to focus on the individual author’s right to property either by virtue of their personality or their labour, in each case implying creative independence.

This paper examines this paradox in the context of the Nigerian popular music industry which has experienced remarkable commercial growth since the turn of the century. It appears to be currently dominating the African music scene, and is foraging into international markets. However, there are growing concerns among listeners and followers about the sameness of the sound, and the need for innovativeness and variety. This research is primarily aimed at ascertaining the extent to which copyright law influences the business practices of record labels in the Nigerian popular music industry, and the consequent effects on the creative autonomy of performing authors. Specifically, it will scrutinise the
traditional role of copyright law and determine whether the parameters of the law serve to weaken authorial independence. In investigating this issue, this paper adopts a law and economics approach as a basis for the legal and empirical analysis that the study will involve. It is expected that the experiences of performing authors in relation to their labels and their market will show what impact such relationships have on creative autonomy and output, and provide recommendations for legal reform or policy guidelines for future interactions of this nature.