

Contents

<i>List of Tables and Figures</i>	xi
<i>Author's Note</i>	xii
<i>Acknowledgements</i>	xiii
<i>Abbreviations</i>	xiv
<i>Cases</i>	xvii
<i>Legislation (Statutes, Regulations, Codes, Ratified Treaties, Instruments and other formal International Obligations)</i>	xx
Part I Setting the Scene	
1 Liberalism, Realism, Convergence, Consumption and Tensions between Technological and Legal Change	3
A short parable on copyright	3
Overview: setting the tone, establishing the terms and providing the scope of this book	4
The relevance of the study of political economy to copyright in popular media	10
Political theme: liberalism, consumers and copyright	10
Legal theme: realism, consumerism and copyright	12
Convergent consumption	14
Copyright and digital legislation convergence	18
Convergent corporate media industry	25
Technological convergence	28
Tensions between liberalism, realism, copyright control and technological change	33
Methods: why empirical and doctrinal literature should be examined concurrently	35
Outline of chapters	36
2 Global Governance: Regulation of Copyright Law and Policy in Popular Media Copyright Industries	53
The global copyright governance regime: background and brief history	53
Copyright: historical relevance and rationale	55
The new hope: copyright convergence or sophisticated governance?	60
Legitimacy of copyright governance structure in member nations	64
Corporatization of copyright: politicizing copyright	66

The substructure: <i>untercopyright</i> transition	75
Legal realism strikes back: a case of China and the crouching paper tiger	77
What if the US challenged a Yugoslav member of WIPO?	84
Conclusion: copyright governance – the artificial reality of risk minimization	86
3 Corporate Control of Popular Media (and Culture): Competition Law and Policy in Popular Culture	89
Introduction: corporations and copyright – merging or converging, controlling or uncontrolled?	89
The convergence of natural and temporary monopolies: unnatural and anticompetitive	92
The nature of anticompetitive behaviour: rise (and rise) of the corporate <i>übermensch</i>	95
The extent of anticompetitive behaviour in popular media industries	104
Competitive collaboration – popular media industry domination and horizontal collusion (the nexus between a natural monopoly and oligarchy)	106
Legal realism and the artificiality of moral rights: a moral dilemma?	109
Digitalization and convergence: monopolized controlled consumption vs anti-monopolized uncontrolled consumption	112
Conclusion	116
Part II Problems with Neighbours – Unprecedented Challenge to Corporate Control	
4 Copyright Developments in Popular Media: Doctrinal and Statutory Challenges	121
Introduction	121
Judicialization of copyright governance in popular media	123
Digital neighbouring legislative framework: copyright and telecommunications	127
The combined effects of recognition of copyright convergence by the legislature and judiciary	129
External challenges: lessons from the case law	132
Conclusion	139
5 From Printing Press to Peer-to-Peer: Centuries of ‘Modern’ Media Piracy and the Social Urge for Legal and Illegal Consumption	143
Introduction	143
Monarchic concerns (1450–1709)	149
Statute of Anne and subsequent cases (1709–1842)	151

Modern copyright statutes and piracy concerns (1842–1970)	153
The rise of corporate copyright consolidation (1970–2012)	157
Technological enlightenment and format unrest: the natural urge to disseminate	158
Conclusion	161
6 A Three-Front War on Piracy: Technological Protection, Legal Action and Education Programmes – <i>Null Bock Haltung?</i>	163
Introduction	163
General observations and legal misnomers	166
Traditions, customs, culture and change	168
The war effort	172
Litigating against John Doe, and Fred Nurke and other armchair pirates	175
Specific outcomes and the success of the current enforcement framework: issues with deterrence	179
Practical difficulties	179
Criminal and quasi-criminal prosecution and civil action	181
The fallacy of copyright industries as victims	185
Deterrence	187
Conclusion	196
7 Occidental Failure: The Paradox of Transglobal Copyright Industries in Emerging Economies	200
Introduction	200
Paradox 1: piratical synergies and reflections	202
Paradox 2: tangibles as material needs versus intangibles as immaterial wants	206
Paradox 3: international copyright governance as neo-colonialism?	211
Conclusion	217
Part III Prospects for Copyright Policy and Consumption in Popular Media	
8 The Nexus between Piracy and Legitimate Consumption: Social Networking, P2P File-Sharing and Consumer Empowerment	223
Introduction	223
Social media	227
Disorder in the court	231
More disorder in the court	235
Consumers and respectability: a case of back to the future	236
The psuedopoliticization of social networks – reverse consumption	242

x *Contents*

Creative convergence	244
Conclusion	246
9 Conclusion: Reconciliation or Infinite Futility?	250
Popular media as commons culture: ever or never?	252
Legal reflection	261
A new era of Western media consumption	264
A short parable on copyright governance	265
<i>Notes</i>	267
<i>References</i>	277
<i>Index</i>	289