# Book Symposium – Multi-sided Music Platforms and the Law: Cultural anthropology perspectives

**By:**

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April 28, 2020

Recent years have seen a remarkable upturn in scholarship on copyright in Africa in general and its intersection with competition law and policy frameworks in particular. Multi-Sided Music Platforms and the Law takes the discussion further through a detailed examination of global platforms such as YouTube, SoundCloud and Facebook and the profound impact these firms have on the creative sectors and the economy more broadly of developing countries.

The central argument of the book is that the growing dominance of these platforms may hamper the ability of a considerable number of “indies” in the South African and Nigerian music industries to compete in the copyright market. As Okorie elaborates, the risk to competition is most acute in the area of infringing uses of protected content (such as in unlicensed uploads, in the grey areas of “safe harbor” doctrines or the indexing, storage and optimization of user uploads) or in the unregulated uses of personal data.

To address these challenges, she recommends legislative reforms within the copyright, competition and privacy law framework that are aimed at the regulation of platforms in three key areas: introduction of a properly defined exclusive right of communication to the public; the expansion of existing exceptions and limitations; and the prohibition of the abuse of economic dependence as evident, inter alia, in the widespread practice of platforms to share revenue with only a select few copyright owners.

Overall, the book is rigorously structured, cogently argued and brimming with detailed analyses of statutory provisions and leading cases in South Africa, Nigeria and the EU. Read, however, from a non-legal perspective, the book raises a number of questions. As an anthropologist with a keen interest in the South African copyright landscape of the past ten years, I am interested in instigating a cross-disciplinary conversation about some of the assumptions underlying much of the scholarship on copyright in Africa and the Global South more generally, two of which I would like to discuss in a little bit more detail here. The first concerns the grounding of Okorie's argument in utilitarian-incentivist justifications of copyright whereby copyright is meant to balance the interests of copyright owners and the public in the name of social welfare. This rationale has of course been rehearsed ad nauseam in law and economics scholarship but tends to disregard the specific parameters of developing countries.

For instance, for the better part of the twentieth century, in the advanced economies of the West the "social" – the "ingredient" that constitutes society - has been determined by factors such as wage labor, some system of insurance or grants, or citizenship. But in most colonies these factors, if they have been present at all, have never been anchors of inclusion and equality. And with de-industrialization and the resurgence across much of the post-colonial world of centrifugal, poly-cultural forms of what anthropologists Jean and John Comaroff call ID-ology, the "social" here and elsewhere is unlikely to be the defining quality of the global order in the twenty-first century.

Another reason why the "social" may no longer provide the basis for copyright's utilitarian effects is the negative impact platforms have on the very substance of what, in an older terminology, was referred to as "music," "listener" or "fan." The algorithmic tracking, indexing and storing of consumer-generated data

goes well beyond economics and the mere policing of cultural practice that copyright is increasingly degenerating into. As a growing literature shows, these technologies upend the conventional relationship between authors, users and consumers (indeed the very terminology) by turning the latter into (unpaid) authors (of data) and users such as advertising firms into consumers of those data.

Most importantly, though, the monetization of "consumer" data goes to the heart of how we define ourselves, how music becomes a "technology of the self." The "content" that people put to work in shaping their lives and its transformation into an affect-laden object of personal attachment called "music" that platforms craft by means of curating techniques such as "genres," playlists, rankings etc. is less sold (or "made available") to us than *it sells us*. See Brackett and, Drott.

These are just some examples that not only highlight the precarious situation authors and consumers are increasingly experiencing vis-à-vis the emerging "platform capitalism" encroaching on their creativity and everyday lives. They also force a sustained interdisciplinary dialogue about copyright justifications as we have known them ever since their origin in eighteenth-century utilitarian thought. For if the ends of copyright are up for grabs, surely, the means too need to be reconsidered. In this effort, the regulation of multi-sided music platforms by anti-trust measures, updated competition law or copyright law policies may be only one step. Others may include the wholesale dismantling of the largest platform firms, the reining-in of the network effects produced by platforms, or even the extension of cash transfers that are in place in countries such as South Africa and Namibia to "creatives."

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