

The Artistic Freedom Voucher: An Internet Age Alternative to Copyrights

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Executive Summary

The institution of copyrights has its origins in the feudal guild system. Copyrights provide an incentive for creative or artistic work by providing a state-enforced monopoly. Like any other monopoly, this system leads to enormous inefficiencies, and creates substantial enforcement problems. The size of these inefficiencies and the extent of the enforcement problems have increased dramatically in the Internet Age, as digital technology allows for the costless reproduction of written material, and recorded music and video material.

The artistic freedom voucher (AFV) is an alternative mechanism for supporting creative and artistic work. It is designed to maximize the extent of individual choice, while taking full advantage of the potential created by new technology.

The AFV would allow each individual to contribute a refundable tax credit of approximately \$100 to a creative worker of their choice, or to an intermediary who passes funds along to creative workers. Recipients of the AFV (creative workers and intermediaries) would be required to register with the government in the same way that religious or charitable organizations must now register for tax-exempt status. This registration is only for the purpose of preventing fraud – it does not involve any evaluation of the quality of the work being produced.

In exchange for receiving AFV support, creative workers would be ineligible for copyright protection for a significant period of time (e.g. five years). Copyrights and the AFV are alternative ways in which the government supports creative workers. Creative workers are entitled to be compensated once for their work, not twice. The AFV would not affect a creative workers ability to receive money for concerts or other live performances.

The AFV would create a vast amount of uncopyrighted material. A \$100 per adult voucher would be sufficient to pay 500,000 writers, musicians, singers, actors, or other creative workers \$40,000 a year. All of the material produced by these workers would be placed in the public domain where it could be freely reproduced.

Under plausible assumptions, the savings from reduced expenditures on copyrighted material would vastly exceed the cost of the AFV. Much of this savings would be the direct result of individuals' decisions to use AFV supported music, movies, writings and other creative work in place of copyright-protected work. A second source of savings would be the result of lower advertising costs, since much of the material used in advertising supported media would be in the public domain.

In contrast to copyright protection, which requires restrictions on the use of digital technology, the AFV would allow for the full potential of this technology to be realized. Creative workers would benefit most when their material was as widely distributed as possible. They would therefore have incentives to promote technologies that allow for recorded music, video, and written material to be transferred as easily

as possible. By contrast, copyright enforcement is demanding ever greater levels of repression (e.g. restriction on publishing software codes, tracking computer use, and getting records from Internet service providers) in order to prevent the unauthorized reproduction of copyrighted material. The police crackdowns on unauthorized copying by college students, and even elementary school kids, would be completely unnecessary for work supported by the AFV.

Introduction

In the last few years, it has become increasingly apparent that copyrights are an anachronism ill-suited for the Internet Age. The Internet and digital technology make it possible to instantly, and without cost, copy recorded music, movies, or written material. The response of the entertainment and publishing industry to the development of technology has been to demand more repressive laws that impose harsh penalties for unauthorized reproductions, and to restrict the development of technology. This trend towards increasing government repression for the purpose of copyright protection does not present a pleasant image of the future.

The alternative is to develop methods of compensating creative work that take full advantage of improvements in technology. The Artistic Freedom Voucher (AFV) is one such method. The basic idea is very simple. Every adult is given a certain amount of money (e.g. \$100) as a “voucher,” which can only be used to support creative or artistic work. This money would take the form of a refundable tax credit.

The recipient of the (AFV) can be any individual or intermediary who either engages in or supports creative or artistic work. Potential recipients would register with the government to qualify to receive these vouchers in the same way that churches or non-profit organizations currently register to qualify for tax-exempt status. The government makes no assessment of the merits or quality of an individual’s work; the registration is simply a certification – comparable to that made for a church that it is a religious institution and not a fraud established for tax purposes – that the individual is engaged in some type of artistic or creative work.

A condition of receiving AFV funds, either directly or through an intermediary, is that all the work produced by the individual is placed in the public domain and can be reproduced and transferred without restriction. Recipients of AFV funds will not be eligible for copyright protection for any work produced for a significant period of time (e.g. five years) after receiving AFV support. Copyright protection is one way that the government uses to support creative and artistic work, the AFV is a second way. Creative workers are only entitled to be paid once for their work, not twice.

The AFV would quickly make available to the public an enormous amount of free music, movies, books, and other publications. For example, a \$100 per adult voucher would be sufficient to support a total of 500,000 musicians, singers, writers, actors, and reporters at an average annual salary of \$40,000. The AFV would allow creative

workers to get around the existing corporate structures. And, under plausible economic assumptions, it could easily pay for itself many times over in savings to consumers.

The Mechanics of the Artistic Freedom Voucher

The purpose of the AFV is to maximize the degree of individual choice in determining which creative work should be supported, while also taking full advantage of the potential of digital technology. It is designed to be as simple as possible for both the individuals distributing their voucher money, and the creative workers who receive it.

The Taxpayer and the AFV

There would be two alternative mechanisms through which individuals could use their voucher. As one option they could have the funds paid directly by the government to the creative worker or intermediary of their choice, by indicating their selection on a tax form. Alternatively, they could pay an amount equal to the voucher directly to the creative worker or intermediary of their choice, and then file for a refundable credit on their tax return. In this case, taxpayers would be obligated to keep a record in the event of a tax audit, just as they do now for a charitable contribution.

The first method – having the funds directly transferred – would presumably be the alternative chosen by most people. Since every creative worker or intermediary would have to register with the government to be eligible for AFV funds, they would have an identification number that they would promote to potential supporters. A taxpayer could allocate their voucher to one or several individuals or intermediaries simply by using their identification numbers on their tax form.

The second method – being credited for money paid directly – would be an option available to individuals who prefer to keep their allocation private. These individuals could claim their voucher (which would be refundable) simply by indicating on their tax return that they had made a payment to a registered creative worker or intermediary. Taxpayers would be required to keep records in the event that they are later audited, just as is now the case with charitable deductions.

Creative Workers and AFV

The AFV would immediately create a pool of money (approximately \$20 billion annually) to support creative and artistic workers that is far larger than the amount that currently flows to them through copyright-protected material. Furthermore, since the current distribution of royalties and related payments is heavily concentrated

among a small group of singers, actors, writers and other creative workers, the funding available through the AFV mechanism would dwarf the amount available to creative workers at present through the copyright system, apart from the money earned by this group of elite performers. This means that almost all creative workers would stand to earn far more through the AFV system than through the copyright system.

Creative workers could seek AFV funds directly through promoting their work to potential contributors, and also by contracting through intermediaries. It is likely that there will be a substantial niche for intermediaries in this system, who would funnel AFV funds to creative workers in specific areas (e.g. mystery writers, blues musicians, investigative journalists, etc.). The intermediaries would promote themselves to potential contributors in the same way as creative workers might – presumably highlighting the volume and quality of the work they are supporting.

Both creative workers and intermediaries that channel AFV funds to creative workers would have to register to qualify for these funds. Registration would be comparable to the process that a church or non-profit organization must currently follow to gain tax-exempt status. An individual must indicate that they engage in some type of creative activity, which would in principle be eligible for copyright protection. An intermediary must indicate that they allocate funds to individuals who are registered as creative workers. The information provided with this registration would be subject to verification in the same way that the information filed to gain tax-exempt status is currently subject to verification. The only basis for challenging the registration would be in the event of fraud – evidence that creative workers or intermediaries have not done what they claimed to be doing.

A creative worker who registers to receive AFV funds gives up eligibility for copyright protection for a significant period of time – such as five years – after receiving AFV funds. Copyright protection is a government-granted monopoly. It is one way in which the government compensates creative workers. The AFV is an alternative mechanism. A creative worker has the option to choose either method, but not both. The purpose of the delay between receiving AFV funds and being eligible for copyright protection is to prevent the AFV system from being used as a farm system by the entertainment industry. It would be pointless to use public money to build up the reputations of musicians, singers, actors etc. and then have their work bottled up behind copyright protection.

The restriction on copyright protection for recipients of AFV funds has the great advantage that no public enforcement effort is required. Any copyright that is issued that is in violation of this condition is simply rendered unenforceable. For example, if a singer decides to leave the AFV system, after building up his or her reputation, and then records a copyrighted CD the following year, the copyright holder (the singer or a recording company) would be unable to take any legal action against any person who copies and circulates the CD. The work remains in the public domain. In contrast to the copyright system, the enforcement of which is requiring ever greater levels of

government repression due to advances in technology, the AFV system requires no enforcement.

The Economics of the AFV

The AFV will create a vast amount of writing and recorded music and video material, all of which will be in the public domain. Under plausible assumptions, the money that the public saves by using AFV supported material instead of copyright supported material can easily exceed the size of the public grant needed to fund the vouchers.

The arithmetic on this is straightforward. **Table 1** lists the amount of money the public currently spends each year on recorded music, movies, books, and broadcast and print advertising. It also includes high and low projections of potential savings due to the use of uncopyrighted material generated through the AFV. These projections are based on a set of assumptions about the extent to which AFV material would substitute for copyrighted material and thereby reduce the cost to the public for each medium.

In the case of recorded music and movies the high savings assumption is that the availability of AFV material would reduce the direct costs to the public of copyrighted material by 60 percent in the high saving scenario and by 20 percent in the low saving scenario. (The reduction in direct costs is due both to the fact that the public is likely to buy less copyrighted material, now that a large body of free material is available, and that the cost of each unit of the copyrighted material [CD or DVD] will be less because it must now compete against material not subject to copyright protection.) The savings in these categories are likely to be especially large, since it is likely that much recorded audio or video material will be transferred at virtually no cost over the Internet.²

It is also likely that these savings would grow through time. It is likely that the vast majority of creative workers would end up committing themselves to the AFV regime, since their economic prospects would be much brighter under this system than the copyright system.

² It is worth noting that the availability of large amounts of uncopyrighted material is likely to affect the development and spread of technology. For example, demand for broadband Internet connections would likely increase dramatically, if there is a vast amount of recorded music and video material readily available to be downloaded. In addition, it would be reasonable to imagine an industry in burning CDs or DVDs for people who did not have sufficiently rapid Internet connections or other necessary technology.

Table 1
Potential Savings From ATV

Medium	Current Sales	High Savings	Low Savings
Recorded Music	\$13.7 billion	\$8.2 billion	\$2.7 billion
Movies	\$27.5 billion	\$16.5 billion	\$5.5 billion
Books	\$26.9 billion	\$5.4 billion	\$2.7 billion
Broadcast Advertising	\$60.9 billion	\$12.2 billion	\$6.1 billion
Print Advertising	\$48.2 billion	\$9.6 billion	\$4.8 billion
Cable and Pay TV	\$67.9 billion	\$13.6 billion	\$6.8 billion
Total	\$245.1	\$65.5 billion	\$28.6 billion

Sources: Author's calculation and industry trade groups.³

As the amount and quality of free material rose relative to material subject to copyright protection, it could prove ever more difficult to sustain the copyright system. It is entirely possible that the copyright system would eventually collapse, as few people would be willing to pay copyright protected prices for the material still subject to copyright protection, but this would depend on how successfully copyrighted material could compete in a free market with AFV supported material.

The projections assume much more modest savings (20 percent in the high savings scenario and 10 percent in the low savings scenario) in the case of books, advertising, and cable and pay TV. In these cases, a much higher proportion of the costs are attributable to the physical production and distribution of the material, rather than the compensation of the creative workers. This means that the availability of uncopyrighted material will have less effect on total costs.

In both of the scenarios constructed in Table 1, the savings exceed the cost of the AFV to taxpayers. In other words, if these projections prove to be plausible, then the AFV is likely to save more money than it costs. In the case of the low savings scenario, the projected savings are \$28.6 billion, an amount that is 40 percent larger than the \$20 billion cost of the AFV. The \$65.5 billion savings projected in the high savings scenario is more than three times as large as the cost of the AFV.

³ The figure for recorded music is for 2001 and can be found at [http://www.plunkettresearch.com/entertainment/entertainment_statistics_1.htm]. The estimate for year 2000 domestic movies sales is only for revenue from theaters and DVD sales (excludes pay TV, broadcast TV, and cable). It can be found at [http://www.factbook.net/wbglobal_rev.htm]. The estimate of book sales is for 2002, it can be found at [<http://www.publishers.org/industry/2002.cfm>]. Estimated broadcast and print advertising revenue are for 2002 and are taken from [<http://www.tnsmi-cmr.com/news/2003/031003.html>]. Estimated cable and pay TV revenue is for the year 2000 and taken from [http://www.plunkettresearch.com/entertainment/entertainment_statistics_3.htm].

It is also worth noting that much of this saving will take the form of lower advertising costs, which will be presumably passed on in lower product prices. The costs imbedded in products due to advertising are in some ways comparable to a tax, since individuals have no choice as to whether or not they will pay them (as opposed to the decision to buy a CD or DVD, which is under the individual's control). The projected savings due to lower advertising costs are \$10.9 billion in the low savings scenario and \$21.8 billion in the high savings scenario. These projections imply that in the low savings case, slightly more than half of the funding for the AFV would be directly recovered through lower advertising costs passed on in lower product prices, and in the high savings scenario, the savings from lower advertising costs would exceed the revenue needed to fund the AFV.

The AFV will lead to many savings in other areas, primarily resulting from the reduced need to protect copyrights. For example, many colleges and universities are now holding sessions in which they instruct their students on the impropriety of downloading copyrighted music. They also engage in policing activity on behalf of the recording industry, as do Internet service providers. Even ordinary businesses are being called upon to monitor the Internet usage of their employees, in order to prevent unauthorized reproductions of copyrighted material. Government law enforcement agencies have also frequently been called upon to assist in protecting copyrighted material.

While the presence of AFV material would not deny the ability of copyright holders to enforce their copyrights, it would be reasonable to expect that the copyright holders would bear the enforcement cost themselves, rather than transferring this cost to the rest of society. In a world with AFV supported material, it would be difficult to justify some of the more extreme measures demanded by the entertainment industry – for example prohibiting the publication of software codes that can break copyright locks or requiring digital devices to include locks that prevent the reproduction of copyrighted material. If the development of technology is making it difficult to enforce copyrights, then this suggests the need for an alternative mechanism to finance creative work, not a need for greater state repression to sustain an anachronistic system.

Conclusion – Using the Market to Promote Creativity and Diversity

It is only possible to speculate about the shape of a world in which AFV material competes directly with copyrighted material; however, it is reasonable to believe that an AFV system would lead to both a more diverse set of creative and artistic offerings, and also enormous gains in economic efficiency. With the advance of digital technology, copyright enforcement is leading to ever greater inefficiencies and requiring increasing amounts of government repression. Under such circumstances, it is essential to consider alternative mechanisms for supporting creative and artistic work.