

Piracy and Jobs in Europe: Why the BASCAP/TERA Approach is Wrong

The Social Science Research Council is currently completing a 3-year, 7-country study of software, film, and music piracy. A portion of this work examines methods for estimating losses to stakeholders and national economies. In advance of the publication of this report, and in response to a request from several European digital rights groups, this note offers some brief observations on the recent BASCAP/TERA study, “Building a Digital Economy: the Importance of Saving Jobs in the EU’s Creative Industries.”

The TERA study adapts a methodology developed by Stephen Siwek in a series of papers commissioned by US-based industry groups (the MPA, RIAA, and ESA) in 2006-2007. The goal of these studies is to expand the debate about piracy from losses to specific industries to losses to national economies, including especially lost jobs.

The TERA approach is relatively simple: it calculates industry losses by taking the total number of ‘infringements’ reported by industry groups, multiplying by a ‘substitution rate’ that reflects the fractional impact of a pirated good on retail sales, and then multiplying further by the average retail price of the good. The TERA study puts total losses for music, film, TV, and software piracy in the EU in 2008 at around €10 billion. TERA then divides that loss number by the average salaries in the creative sector to obtain direct job losses. It then doubles *that* number to account for ‘indirect’ job losses in the various support industries, and maps these numbers to anticipated annual growth rates in Internet use. Based on this approach, the TERA study projects a cumulative loss of between 611,000 and 1,217,000 jobs in Europe between 2008 and 2015 due to piracy.

Many of the specific assumptions and data sources of the study deserve closer scrutiny. Several industry groups, notably IFPI (the London-based record industry association) and ESA (the DC-based Entertainment Software Alliance), have refrained from publishing estimates of industry losses due to obvious difficulties of measurement. But, in our view, the larger problem with the TERA study is that it makes two basic mistakes regarding national economies and international trade.

1. Domestic piracy may well impose losses on specific industrial sectors, but these are not losses to the larger national economy. Within any given country, piracy is a *reallocation* of income, not a loss. Money saved on CDs or DVDs will be spent on other things—housing, food, other entertainment, etc. This raises a legitimate (and analytically very complex) question about whether these alternatives represent more or less productive uses of money in comparison to additional revenues for the affected industries (Sanchez 2008). There has been, to the best of our knowledge, no serious analysis of this issue. It is quite possible, however, that these alternative uses are more productive, socially valuable, and/or job creating than additional investment in entertainment goods.
2. TERA’s job loss numbers assume that piracy losses fall solely on European companies. For movies, music, and software, however, this is manifestly not the

case. Hollywood studios control 80 percent of the film market in the EU. Microsoft and many other US-based software companies have even higher market share in key productivity software categories. The global footprint of many of these companies makes the breakdown of revenue streams difficult, but the overarching dynamic is a simple one: for IP imports, *legal sales represent an outflow of revenue from the national economy. The piracy of IP imports, in contrast, represents a welfare gain in the form of expanded access to valuable goods.* In film and software, European countries are primarily IP importers. In the more complicated case of music, a very credible Dutch government-sponsored study estimated the welfare impact of music piracy in the Netherlands at a net positive €100 million (Huygen et al. 2009).

The TERA study buries these points in the last paragraph of its final appendix: “To be fully consistent, we should have considered the proportion of local/foreign pirated products (for all the covered creative products), but such data were not available.” In our view, this omission completely skews the analysis. On balance, it is very likely that European countries realize a strong net welfare benefit from audiovisual and software piracy.

SSRC research on piracy has been vitally concerned with the task of fostering rich, diverse cultural production in the digital era. We do not minimize the challenges that piracy—and the digital transition more generally—pose to many existing business models. But we do not think that those goals are served by misrepresenting the impact of piracy. Nor do we think that pointing this out is pro-piracy or anti-industry. Rather, our findings align us with what we see an emerging industry consensus, well illustrated by Robert Bauer, former Director of Special Projects for Global Government Affairs at the Motion Picture Association:

Our job is to isolate the forms of piracy that compete with legitimate sales, treat those as a proxy for unmet consumer demand, and then find a way to meet that demand. (Interview, 2009)

The creative industries that prosper in the digital era, our larger work suggests, will be the ones that answer that challenge.

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Huygen, Annelies et al. 2009. *Ups and downs - Economic and cultural effects of file sharing on music, film and games.* TNO Information and Communication Technology.

Sanchez, Julian. 2008. “750,000 Lost Jobs? The Dodgy Digits Behind the War on Piracy.” *Ars Technica*. <http://arstechnica.com/tech-policy/news/2008/10/dodgy-digits-behind-the-war-on-piracy.ars>.