



Journal of the  
Music & Entertainment Industry  
Educators Association

Volume 16, Number 1  
(2016)

Bruce Ronkin, Editor  
Northeastern University

Paul Linden, Associate Editor (Book Reviews)  
Butler University

David Schreiber, Associate Editor  
Belmont University

Published with Support  
from



The *Journal of the Music and Entertainment Industry Educators Association* (the *MEIEA Journal*) is published annually by MEIEA in order to increase public awareness of the music and entertainment industry and to foster music and entertainment business education.

The *MEIEA Journal* provides a scholarly analysis of technological, legal, historical, educational, and business trends within the music and entertainment industries and is designed as a resource for anyone currently involved or interested in these industries. Topics include issues that affect music and entertainment industry education and the music and entertainment industry such as curriculum design, pedagogy, technological innovation, intellectual property matters, industry-related legislation, arts administration, industry analysis, and historical perspectives.

Ideas and opinions expressed in the *MEIEA Journal* do not necessarily reflect those of MEIEA. MEIEA disclaims responsibility for statements of fact or opinions expressed in individual contributions.

Permission for reprint or reproduction must be obtained in writing and the proper credit line given.

Music & Entertainment Industry Educators Association  
1900 Belmont Boulevard  
Nashville, TN 37212 U.S.A.  
[www.meiea.org](http://www.meiea.org)

The *MEIEA Journal* (ISSN: 1559-7334)  
© Copyright 2016  
Music & Entertainment Industry Educators Association  
All rights reserved

# **Taking The Liberty: Toward a Theory of Copyright and Creativity**

Jason Lee Guthrie  
*The University of Georgia*

## **Abstract**

In the three-hundred-year history of statutory copyright debates have continued to rage about the aims of copyright law and how it can best fulfill them. Striking a balance between the disparate interests of content creators, publishers, and the public domain has proved persistently difficult. Yet, a myopic focus on the intricacies of legal policy has often obscured the underlying issues that plague copyright law on a fundamental, ideological level. This article will argue that the fundamental problem in copyright law is an incomplete theorization of the nature of creativity and creative work. It will trace an intellectual history of copyright theorization in two major theoretical frameworks: classical liberalism and cultural Marxism. Based upon this review, it will suggest a third framework, ritual economy, as capable of theorizing the economics of creative work more completely. It concludes with an application of ritual economy to the popular music industry.

Keywords: copyright law, intellectual history, legal history, music industry, ritual economy

The justification for statutory copyright protection seems self-evident. Creators of copyrightable works invest substantial time, skill, and capital into the content they create, and therefore should have some legal recourse if others profit from their works unfairly or use them contrary to the creator's original intent. Yet, in the more than three-hundred-year history of copyright law key issues surrounding authorship, ownership, and public use of creative works continue to persist. This suggests that legal protection alone cannot construct an optimum environment in which creativity can occur. It also suggests that the theorization of the essential nature of creative work is still incomplete. This article will trace an intellectual history of copyright's theorization in two major theoretical frameworks: classical liberalism and cultural Marxism. Based upon this review, it will suggest a third framework, ritual economy, as capable of theorizing

the economics of creative work more completely. It will also argue the necessity of rehabilitating authorship in theoretical literature, and will begin to develop an ontological foundation for legitimate authorship by drawing upon the ritual economy paradigm. It concludes with an application of the ritual economic view to the illustrative example of the popular music industry.

## Introduction

The Statute of Anne, ratified into English law in 1710, is considered a seminal early copyright statute.<sup>1</sup> It began with a statement of the central issue that it was enacted to address:

Whereas printers, booksellers, and other persons have of late frequently taken the liberty of printing, reprinting, and publishing...without the consent of the authors or proprietors...to their very great detriment, and too often to the ruin of them and their families...<sup>2</sup>

In the context of the time, this “taking of liberties” represented a cultural shift away from the practice of honoring the copyrights of authors as a moral—or at least a contractual—obligation. The technological innovation of the printing press, the rise of a literate public, and the economic opportunities in providing that public with written content turned a matter of honor into a matter of money.<sup>3</sup> The primary beneficiaries of this turn were not necessarily authors themselves, but those with sufficient wealth and infrastructure to capitalize upon the production and dissemination of creative works. For authors and their designated rights holders, infringement had become detrimental enough that Parliament enacted legislation ostensibly on their behalf.

Yet, after three centuries of statutory copyright protection the creative industries continue to operate in an environment where content creators supply the raw material—in the form of literature, artwork, music, photography, films, software, and other copyright protected mediums—while receiving only a fraction of the financial benefit their works produce. Technological advances may have made the shift from a copyright system based on moral rights and contracts to one based on case law and statute necessary, but that shift has done as much to entrench the power of those with the means to capitalize on the creative works of others as it has to

effectively protect content creators. This is a result of the inherent paradox of legal protection. At the moment a citizen is protected from harm by law, they are also rendered dependent upon the State for the enforcement of that protection. Thus, while infringers of copyright may ultimately be held liable for their transgressions, liability can only be determined by time-consuming litigation that keeps copyright holders from pursuing their normal course of work, by an expensive reliance upon the legal system for adequate representation, and by submission to the uncertainty of the judicial apparatus that may or may not rule in the rights holder's favor.

The entrenchment of power in the creative industries is also accomplished by the specialization of labor. In most industrialized nations copyright protection is, in principle, available to any citizen. In practice though it can only meaningfully impact work that has potential for economic capitalization. If there is no value in infringing upon a work no one will do so. The achievement of a certain degree of mastery at a craft is necessary to produce work that has economic value. In an advanced capitalist economy, this level of specialization typically precludes content creators from also obtaining the specialized knowledge necessary to secure the rights to their own works. They are even less prepared to defend those rights legally if the need arises. In general, content creators in a position to produce works of such quality that they require protection are not in a position to provide for that protection themselves.<sup>4</sup>

These twin paradoxes of dependence and specialization are fundamental to the structure of creative industries. Since the enactment of the Statute of Anne, the balance of power that they create has typically favored the "industry" representative at the expense of the "creative" in terms of financial benefit. Yet, the very technological developments that precipitated the need for statutory copyright protection in the early eighteenth century are quickly maturing to a point of universal access to information. More than ever before, content creators are able to retain the rights to their works, as well as to produce and distribute them, independently of industry mechanisms if they so choose.

The predominant narrative of copyright history emphasizes the legislation that enacts it and the case law that reifies it. In this narrative, individual actors are only relevant insofar as they make incremental contributions to the overall structure within which copyright functions. Such a history is to be expected. The history of law is the natural purview of legal historians and scholars, and the practice of law demands a history

attentive to legal precedent and the minutia of legislative reform. Copyright is unique, however, in that it inherently presumes an outside actor, the content creator, who is capable of producing work of such value that it requires protection. Situating the history of copyright law *exclusively* inside legal and legislative narratives has ultimately served to marginalize content creators and to perpetuate an environment in which their work can be exploited. The necessarily specialized language of existing histories is incompatible with the common vernacular. What is needed, then, is a revision to the history of copyright law, one that empowers making informed choices about the rights to one's own work rather than wholesale reliance upon the creative industries.

## A History of Theory

While comprehensive histories of copyright law are typically of the legal and legislative variety, a significant body of theoretical literature regarding copyright does exist. The theoretical tradition that first informed statutory copyright began with the work of John Locke, and it underscored the historical and ideological context within which the Statute of Anne came about.<sup>5</sup> The Lockean conceptualization of the supremacy of individual will was constructed in direct opposition to the monarchical, feudal society of the United Kingdom in the seventeenth century. Locke's goal was to create an ontological basis for individual freedom, and the school of thought that derived from his work is known as classical liberalism. John Durham Peters noted, "Locke arguably invents the concept of communication as the sharing of thoughts by individuals."<sup>6</sup> By conceptualizing communication as the transmission of fully formed ideas from one autonomous individual to another, classical liberalism created a *de facto* theory of communication in which "each individual is a monarch in the kingdom of significance."<sup>7</sup> This philosophical construction ultimately helped to achieve a cultural, political, and economic emergence from feudal society. It also helped to legitimate the rise of capitalism, and it is within the nascent capitalist system that statutory copyright protection emerged.

The supremacy of the individual will emphasized in classical liberalism was driven by an underlying assumption that the result of maximizing individual liberty would be a society of maximum efficiency. This is reflected most clearly in the free market economic theories of Adam Smith, but also in other Scottish Enlightenment ideas such as the compatibilism of David Hume or even the romanticism of Robert Burns. Whether the

goal was an efficient maximization of economic resources and labor, or a maximization of human freedom and artistic expression, the assertion was that the best possible outcome would be achieved by making each individual as autonomous and self-sustaining as possible. Thus Smith's "invisible hand" that drove an economy towards maximum efficiency was the cumulative effect of each individual citizen's pursuit of her or his own self-interest.<sup>8</sup>

The Statute of Anne anticipated Smithian economics in its aspiration for the "encouragement of learned men to compose and write useful books."<sup>9</sup> The notion of the creative impulse being driven by a guarantee of remuneration has proven to be a historically resilient one. The language used in the Copyright Clause of the American Constitution eighty years later revealed a similar understanding of the drive for innovation in the creative industries as directly proportional to the likelihood of economic compensation:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.<sup>10</sup>

In this line of reasoning, exclusive rights secure the likelihood of compensation and therefore fuel the drive to innovate.

This kind of thinking persists today, as does the idea that content creators are the primary beneficiaries of copyright protection. The public's right to knowledge and the free flow of information also figure into the copyright reform discourse.<sup>11</sup> Yet, of these three parties in the creative industry value chain—The Creative, The Industry, and The Public—creators supply the raw material and the public supplies the capital while industry representatives continue to reap a significant percentage of the revenue, even as disruptive technologies diminish their monopolies on publishing and distribution. The critique of political economic structures that promote this set of conditions is, of course, also the subject of an extensive theoretical discourse beginning with the work of Karl Marx and continuing through the various traditions that descend from him.

## A History of Copyright and Marxism

While achieving the end of monarchy may provide a point of compatibility between the philosophies of Locke and Marx, their prescribed means to accomplish the empowerment of the lower classes are theoretical antitheses. The work of Locke and the Scottish Enlightenment thinkers that followed him became part of an intellectual milieu that contributed, at least in part, to the golden age of British Imperialism. From the vantage point of continental Europe in the mid-nineteenth century, Marx found this sort of imperial state to be as guilty of oppressing its working class citizens as aristocratic society ever was, and perhaps more efficient at doing so. He once described the capitalist system as “the restoration of monopoly in a more terrible form.”<sup>12</sup>

In the same line of argument Marx wrote, “Political economy starts with the fact of private property; it does not explain it to us.”<sup>13</sup> Much work in the Marxist tradition has explicitly challenged bedrock economic principles of capitalism such as the division of labor and the process of commodification, but it is in this challenge to the presupposition of private property that the intersection between Marxism and copyright law has become most salient. For Locke, the ability of a person to obtain private property, with the power of the State legitimizing and enforcing that right, was the natural outcome of one’s labor.<sup>14</sup> Marx took a fundamentally different view of the nature of labor which he found to be “*external* to the worker...it does not belong to his intrinsic nature.”<sup>15</sup> In Marx’s view, the central premise of statutory copyright law, that content creators or their designees could legitimately lay claim to owning specific works at all, was very much in question.

The relationship between Marxism and the creative industries is open, and indeed has been subject to, a wide variety of interpretations. That Marx’s own writings were more concerned with the critique of political and economic structures than with culture and art explicitly can be explained by the common reading of his base/superstructure model. The orthodox interpretation of this model theorized an economic base, constituted by the division of labor and the relations of production in a society, as determinant of superstructural phenomena such as literature, art, and music.<sup>16</sup> Modern literary and cultural Marxisms have not, as a rule, called for the abolition of private claim to intellectual property, but in theorizing culture they have often constructed models in which economic modes of production are determinant of creative works. This assertion is a direct



contradiction to the portrayal of copyright in classical liberalism as an assurance of economic incentive so that individuals will autonomously determine to create.

Moyra Haslett found that Marxist theorists generally agree their approach “is more comprehensive” in its consideration of class structure and the processes of production and “thus is the more explanatory.”<sup>17</sup> Cultural Marxism has arguably addressed the theoretical issues of copyright law more comprehensively than any other theoretical tradition. It has explained the commodification, first of written works, then of art and music, and eventually of all mass media products as the logical conclusion of content creators claiming ownership to their original works. This claim transformed the nature of that work from a benevolent contribution to society into a commercialized product in the marketplace subject to the pressures of generating livelihoods and returns on investment.

Cultural Marxism has also articulated the phenomenon of celebrity as the fetishized commodification of the laborer. The fetishization of authors to produce a marketable brand that enhanced the economic potential of their work is a historical occurrence that coincided with the emergence of capitalism and copyright.<sup>18</sup> Walter Benjamin’s theorization of mechanical reproduction has shown how the convergence of creative works and mass communication technology made “a genuinely popular culture possible.”<sup>19</sup> Likewise, the convergence of capitalism, commodification, and technology, in concert with a popular culture that thrives off of copyrighted material, created a milieu in which content creators often have not received adequate compensation for their work. Cultural Marxism predicted this reality and leveled upon it a justifiable burden of criticism.

Unfortunately, cultural Marxism has yet to theorize a viable alternative. Even among those of the Marxist tradition that saw popular culture as a form of resistance to the hegemony of dominant culture, the foremost being Stuart Hall, cultural studies as a whole has yet to move beyond some version of a reflection theory in which superstructural culture reflected an economic base. Raymond Williams contended that this has been due to the kind of determinacy a simplistic reading of the base/superstructure model suggested.<sup>20</sup> Though adherents of cultural Marxism have labored tirelessly to define the exact parameters in which the base determines the superstructure, Williams argued that as long as cultural theory is based upon a model in which preexisting economic conditions are considered to any degree determinant of culture the resulting theoretical formulations will possess

little value. Determinacy does exist for Williams, for without it no useful analysis would be possible, but cultural studies must move beyond the base/superstructure model into the more useful concepts of hegemony and totality to find it.<sup>21</sup> Janice Peck charged that, by retaining the determinacy of the base, the work of Hall and others resulted in a field of cultural studies that has “thereby conserved economism—the very thing it sought to abolish once and for all.”<sup>22</sup> Peck echoed Williams’s call for a new line of theoretical work that reimagined the base/superstructure model, the nature of determinacy, and the division between culture and “not-culture.”

## An Alternative History

Classical liberalism and cultural Marxism have both failed to provide an adequate basis for the full theorization of copyright and creativity. An alternative tradition that can inform the theoretical consideration of copyright begins with what James Carey has called the “most useful view of communication and the mass media in the American tradition.”<sup>23</sup> It was handed down to mass communication research around the turn of the twentieth century from a group of sociologists who were interested in journalism and the mass media, and who took a humanist, rather than an organizational, approach to their discipline. Beginning with the work of John Dewey and George Herbert Mead, this school of theory would eventually be dubbed “symbolic interaction” by Herbert Blumer who defined it as a theory of the “peculiar and distinctive character of interaction as it takes place between human beings.”<sup>24</sup> Critically, by beginning from an assumption of human interaction as both individually expressive and communally interpretive, symbolic interaction offered an approach that could avoid reductionism and account for a wide variety of empirically observable phenomena.<sup>25</sup>

Carey found symbolic interaction to be a philosophical and methodological reaction against the utilitarian legacy that classical liberalism had left upon the study of media. He established a link between the sender/receiver model of communication that descended from Locke and the so-called limited effects view of the media, a connection that led American mass communication research to become “largely a mopping-up operation” in the mid-twentieth century.<sup>26</sup> Carey also found that symbolic interaction shared a common intellectual history with cultural Marxism as both turned from the central question of classical liberalism—“What are the conditions of freedom?”—toward the converse question of “How it is that the social order is integrated through communication?”<sup>27</sup>

Carey further developed his own interpretation of symbolic interaction based upon an idea he attributed to Carl Hovland that “in the United States communication is substituted for tradition.”<sup>28</sup> Carey wrote:

In the absence of a shared and inherited culture, communication had to accomplish the tasks of social integration that were elsewhere the product of tradition...there was not a shared traditional culture available to people who were forming new communities and institutions...the only means by which these communities could be organized and held together was through discussion, debate, negotiation, and communication.<sup>29</sup>

The influence of this passage is evident in Carey’s theorizing of the ritual view of communication, which he posed as an alternative to the transmission view that dominates the Western, industrialized world. He described the ritual view as “directed not toward the extension of messages in space but toward the maintenance of society in time; not the act of imparting information but the representation of shared beliefs.”<sup>30</sup>

The field of economic anthropology has constructed a theoretical framework that in many ways parallels symbolic interaction and the ritual view of communication. Known as ritual economy, it incorporates an anthropological view of ritual, the Marxist critique of political economy, and a socio-cultural understanding that is compatible with this branch of communication theory.<sup>31</sup> Ritual economy has proven particularly useful in studying cultures that either pre-date or have demonstrated resistance to capitalism because it acknowledges both economic relations and ritual symbolism as motivating factors in human interaction.

Patricia A. McAnany and E. Christian Wells have described ritual economy as “a theoretical approach for understanding and explaining the ways in which worldview, economy, power, and human agency interlink in society and social change.”<sup>32</sup> They have further defined it as the “process of provisioning and consuming that materializes and substantiates worldview for managing meaning and shaping interpretation.”<sup>33</sup> This conceptual definition grew from a desire to move beyond anthropological work hindered by a dualistic analysis of “economic systems *or* ritual practices” and instead examine “the ways in which nonmaterial motives are embedded in material transfers.”<sup>34</sup> Inherent in this formulation are several key

assumptions that position ritual economy to theorize creative work and its protection more completely than previous frameworks.

## A Theoretical History

The first assumption is found in ritual economy's common heritage with cultural Marxism that places it as a critique of classical liberalism. The tenets of classical liberalism are the dominant language of the American copyright discourse as evidenced by its appeals to individual autonomy, its claim of the public's right to information, and its understanding of creative motivation as primarily economic. To attempt a critique of copyright law from within its own discourse may well produce incremental reform, and this has been the goal of many existing histories. But to attempt a wholesale reexamination of the way copyright is theorized, the essential nature of intellectual property, and how it is that content creators can better manage ownership of their works in an advanced capitalist society a critical theory is required. Ritual economy provides such a critical theory.

Ritual economy also sidesteps some of the major critiques of cultural Marxism. Martin Jay noted that the so-called Frankfurt School, through a synthesis of Marxist economics and Freudian psychoanalysis, developed a position that served as a "critique of both 'scientific' and 'humanist' Marxism."<sup>35</sup> Though the movement would eventually experience its own internal fractures over "the meaning of psychoanalysis," the legacy of the Frankfurt school has been a renewed focus on the "legitimacy of the individual" in Marxism.<sup>36</sup> Ritual economy serves a similar legitimizing purpose by emphasizing individual worldview while retaining the central role that political economy plays in the choices that individuals can make and the ways they interpret meaning.

Further, ritual economy escapes the reductionist tendencies of structuralist Marxisms. In the search for an essential structure of language that remained consistent regardless of historical time or place, structuralism ceded an ontological basis for meaningful social change. By theorizing all power of determinacy as inherent in a preexisting structure, an individual, a society, or even a full-scale political revolution could only hope to achieve a level of influence so incremental as to be insignificant. The poststructuralist critique of this view was principally a call to acknowledge that complexity, not structural simplicity, was the empirical account of reality. Thus, poststructuralism found that a new epistemology able to account for the complexity of human interaction was needed in the social

sciences. Postmodernism went further still to find that the nature of reality itself had changed in the rise of mass communication technologies and the kinds of human interaction they made possible. Thus, for postmodernists, a new ontological approach to reality was necessary to theorize this shift. Ritual economy answers both of these critiques by theorizing worldview as something that is both materialized and substantiated—something that is real and something that can change—without minimizing the complexity of how class structure and political economy interact in influencing it.

The emphasis on worldview leads to the second assumption of ritual economy that effectively informs a theory of copyright and creative works. The notion that economic incentive is the driving force behind the creative impulse is as empirically falsifiable as the structuralist notion that communication is ahistorical. If, as classical liberalism suggested, economic decisions are primarily made by rational actors working in their own best interest it is hard to imagine a context in which genuine creativity can exist. Creativity is risky, and it presumes some portion of time being devoted to imagination at the expense of time devoted to production. Creativity also presumes a worldview in which motivation can be intrinsic to the creator rather than solely the byproduct of economic incentive.

While Marxist notions of class and economic modes of production do inform the context within which creators create, if they are theorized as determinant they likewise preclude intrinsic motivation. This strikes at the heart of why cultural Marxism has ultimately conserved economism. A critical theory that culminates solely in critique can only arouse unrest without providing for its resolution. The school of cultural Marxism that uncritically ascribes to the determinacy of the base is hard pressed to resolve key issues regarding so-called superstructural phenomena such as culture and art.

Certainly some content creators describe themselves as creating primarily for financial gain, but many do not. Those content creators that also become successful capitalists tend to rise to the top in a capitalist system, and at the top they receive media exposure, marketing budgets, and public relations management that help them exert significant influence upon popular culture. Yet, the dominant discourse among elites in the creative industries still retains the familiar tropes of intrinsically motivated creativity, of a special enablement of genius or innate talent, and of the desire for their work to have cultural impact as much as economic reward. The legitimacy of this discourse among popular culture elites may well be de-

serving of scrutiny, but the mere fact that it exists and that naked appeals to financial gain are largely avoided is itself evidence of the primary role that ritual plays in shaping discourse. Whatever interior motive an individual artist may have, their public face almost always professes a sense of making art for art's sake. From the perspective of content creators then, neither classical liberalism's claim of economic incentive nor cultural Marxism's claim of economic determinacy can allow for a worldview in which cultural production is compatible with intrinsic motivation. To make theoretical claims about why content creators create that disregards their own self-narratives is to marginalize them in a way that is ethically unacceptable.<sup>37</sup>

The third and final assumption of ritual economy that positions it to better theorize copyright and creativity is its emphasis on process. By situating the materialization of worldview as an ongoing, malleable process, ritual economy provides a theory that can utilize historical inquiry to affect social change. Cultural studies is often preoccupied with the present and the future, and in a meaningful sense this is its rightful purview. Culture happens in the now, and with an endless stream of new content to fuel inquiry why bother with the past? Yet, when cultural processes are theorized as material the history of culture becomes material as well. Just as the practice of law demands a history that can support appeals to precedent, maintain consistency, and dispense justice, likewise the practice of culture cannot be understood apart from its history. Ritual economy is employed here as a theory that is compatible with the claims of symbolic interaction and the ritual view of communication, that retains the strengths of cultural Marxism while answering its critiques, and that offers historical analysis as an appropriate methodology. By beginning from a theory of ritual economy, it is possible to conceive of a content creator's history of copyright law that can adequately account for individual agency and community interaction while aspiring to culminate in social change.

## A Theory of Copyright and Authorship

Such a history is theoretical in the sense that it is theoretically based, but it is also so radically divergent from the dominant historical narrative as to be theoretical in the sense of imagined. Bernard Miège noted "most of the analyses of the cultural industries devote little attention to artistic creation and are even less concerned with artists."<sup>38</sup> To answer his call to re-center discourse, theoretically based historical work in copyright law must move beyond the critique of previous frameworks and begin to es-

establish a foundation for future research that is artist-centric by rehabilitating an ontological basis for authorship.<sup>39</sup>

The emphasis on individual autonomy in romanticism, the artistic articulation of classical liberalism, is the origin of the “genius author” archetype. While this mythic figure persists to the present day in the discourse of the creative industries, the complexity of cultural production in an advanced capitalist society challenges its legitimacy. No artistic success is the result of individual genius alone. Terry Eagleton voiced a common cultural Marxist criticism when he traced the emergence of the genius author construct as a defense against commodification “just when the artist is becoming debased to a petty commodity producer.”<sup>40</sup> Michel Foucault’s poststructuralist critique of authorship alleged that the author’s name “has no legal status,” and instead emphasized the role of the “author function” in legitimizing discourse.<sup>41</sup>

The emphasis on process in ritual economy allows for a theorization of copyright and authorship that moves beyond both of these views. As copyright law evolved after the Statute of Anne, authors developed complex relationships with publishers that began to obscure claims to individual authorship. In the present day, these relationships are exceedingly complex for authors, artists, musicians, and other content creators to navigate. Even those content creators with the most legitimate claims to “genius” have some level of dependence upon legal representatives, publishers, marketing professionals, and other members of the creative industries. Yet, it is in deconstructing these complex processes of relationship, rather than in viewing content creators as either a vaunted genius or a petty capitalist, that an opportunity for a more meaningful understanding of culture and cultural production exists.

The either/or dichotomy that has demanded an allegiance to one of these two extremes has been detrimental to true progress in the understanding of culture. Just as reflection theory in cultural studies has conserved economism, this false dichotomy has conserved a discourse that ultimately disempowers content creators. It thereby promotes their exploitation by those who ascribe to a worldview in which maximizing financial gain has its own, self-evident justification. By conceiving of culture as a process and conducting a thorough historical analysis, it is possible to avoid either extreme as well as the cold vulgarity of dissection that results from applying a coroner’s scalpel to a subject that is still very much alive. In doing so, the central problem of value in the creative industries, at least from



the content creator's perspective, is revealed to be not one of the value of specific works. It is one of the value of living a life devoted to creativity.

Foucault suggested elsewhere that history may be remembered quite differently if it begins from a point of view in which "universals do not exist."<sup>42</sup> By beginning in this way, he was able to pose an answer to the question "How can you write history if you do not accept a priori the existence of things like the state, society, the sovereign and subjects?"<sup>43</sup> In the case at hand, the interest is not in suggesting that the political economy of the creative industries does not exist. The interest is in the fact that, for many content creators, an alternative reality more meaningfully exists. When decisions made by content creators are driven by a worldview in which personal sacrifice for artistic excellence supersedes economic capitalization, one primary result is likely to be their exploitation. Ritual economy as articulated here suggests the image of an economy within an economy, two radically divergent logics for assigning value that nonetheless exist simultaneously between content creators and industry representatives. Critically though, in the ritual economic view the root cause of this divergence can be addressed as a clash of worldviews rather than as the determinacy of economic modes of production.

For all the impact that political economy may have upon the creative industries, creative individuals remain generally vulnerable to exploitation by "industrial" individuals. It is therefore unlikely that a specific set of statutory copyright reforms for a capitalist system, socialist system, or any political economic system will end their exploitation. The specialized nature of their labor requires that they prioritize a lifestyle of creativity above economic concerns, and as long as their work possesses economic potential the preconditions of exploitation will persist. There does remain an opportunity to develop an inquiry into the factors that sustain exploitation though, and the hope that the past is able to suggest steps toward a more equitable future.

## A Synthesis of History and Theory

To begin a content creator's history of copyright, the central question must turn from "how has copyright law changed over time?" in an effort to discover future directions for policy reform. It must instead ask the question "how have content creators interpreted and used copyright in practice?" in an effort to discover how they can better navigate and influence existing copyright systems. The structuring principles of this history



are not the chronology of legislation or the language of judicial rulings. Instead, they must emerge from the surviving works of content creators themselves and the legacies their works have created. If many creative individuals are more concerned with constructing an opportunity in life to create rather than with the maximization of economic potential, their history must not proceed from an understanding of economics as determinant. Economics may play a highly influential role, and a better understanding of economic processes may certainly be in their best interest, but economic concerns are neither a beginning nor an end unto themselves.

Similarly, if the value of building and contributing to a creative community is considered superior to the monetary valuation of their works, a content creator's history must proceed from an understanding of both individual agency and community interaction as central to the creative process. To understand how content creators have historically used copyright a historian must return to the primary sources they have left behind, and must be prepared to contextualize the evidence in a theoretical framework that allows for an understanding of their worldview. Worldview is complex, changing, and at times contradictory. For example, many content creators in Anglo-American culture would chafe at an absolutist reading of Marx's call to surrender all legal claim to authorship, but their day-to-day activities are often profoundly communal. Ritual economy can reconcile these contradictions by questioning "the simplistic notion that making, exchanging, and using things are invariably motivated by purely materialistic concerns."<sup>44</sup> In this way, a history becomes possible in which the political economy of the creative industries significantly influences the outcome of its production, but does not usurp all power of determination and agency from individual actors.

The theoretical critique of authorship has proven useful for illuminating the communal nature of cultural production, for challenging industry reform efforts paraded in the name of author protection, and for recovering creativity as an essential part of the collective human experience rather than the purview of a genius elite. Yet, in a postmodern society where individual authorship is more universally possible than at any other moment in human history, theoretical scholarship must move beyond the authorship critique and establish a discourse that legitimizes individual contribution. Herbert Blumer noted, "The most outstanding consequence of viewing human society as organization is to overlook the part played by acting units in social change."<sup>45</sup> Misunderstanding the part that content creators can

play in social change has been a negative consequence of the authorship critique, and future work should move beyond this outlook.

The intellectual history traced here addresses both a problem of access and a problem of understanding. Content creators need meaningful access to information about the history of copyright to better manage ownership of their work. They also need to pair with that access a deeper understanding of the context within which creativity occurs in a capitalist, market-driven system. But although content creators are the focal point of this proposed historical revision, it is not only their understanding that is its concern. The history of copyright in theoretical literature reveals a lack of understanding about the nature of creative people and creative work. The move toward the ritual economic view proposed here is thus a synthesis of history and theory, one that can challenge theoretical inconsistencies in the dominant historical discourse and utilize historical scholarship to further inform theoretical understanding.

## Conclusion

There is some precedent for the application of ritual economy to the theorization of copyright and creativity. In *Noise: The Political Economy of Music*, a work that drew heavily upon the history of French copyright law, Jacques Attali theorized that music's "styles and economic organization are ahead of the rest of society because it explores, much faster than material reality can, the entire range of possibilities in a given code."<sup>46</sup> He found music to be "prophetic" of political, economic, and cultural trends in an apparent reversal of base/superstructure determinism.<sup>47</sup> His historical argument was rooted in an understanding of the ritual function of music in community life and social cohesion. As a result, his analysis yielded a richer and more nuanced theorization of the political economy that copyright helped to create in the popular music industry than orthodox interpretations.

The unfolding of popular music history since *Noise's* initial publication in 1977 has largely vindicated its predictive portions. Attali theorized that an economy of repetition, made possible by the advent of sound recording, would continue to expand until it eventually collapsed upon itself. Yet, the bleakness of this apocalyptic vision was tempered by his theorization that an economy of composition would rise in the wake of the music industry collapse. This market correction would be characterized not by the efficacy of its copyright reform, but by a renewed emphasis on direct,

meaningful relationship between the musician and the audience.<sup>48</sup> Clearly, this model describes a variety of empirically observable phenomena evident in the music industry today. As arguably the creative industry most affected by emerging media, piracy, and systemic inequalities in revenue sharing, the music industry is a natural focal point for studying copyright and creativity. A history of copyright and popular music is especially well suited to a revision informed by the ritual economic view. Future work might also explore the validity of extending the prophetic qualities Attali found evident in music to copyrightable cultural production in general, but of course to do so it must finally abandon economic determinism and reflection theory altogether.

As many forms of music have increasingly relinquished a ritual, communal role in human interaction to become a commodity in the marketplace, issues of creative ownership and the exploitation of musicians have become even more pressing. It is now more relevant than ever to contribute to a discourse that encourages musicians and other content creators to make informed choices about the ownership of their work. Musicians have been especially exploited because their worldview is often dissonant with the underlying assumptions of capitalism and bourgeois political economy. Many musicians are attracted to the medium out of a sense of community, a sense of purity, and a sense of returning to something primal or basic about human experience. Spiritual and religious terms are common descriptors among them. The word “magic” is often used specifically. This suggests that any attempt to understand the music industry using a theoretical framework that assumes musicians as rational economic actors, or economic incentive as determinant, will be limited at best.

Utilizing a theory that emphasizes worldview, such as ritual economy, helps to explain a variety of music industry phenomena such as the relative poverty that many working musicians willingly submit to, the veneration of creativity as a structuring ethos for business decisions, the cyclical emergence of musical subcultures that challenge the hegemony of the mainstream, the community formation surrounding so-called “jam band” music, and the recent rise of financing album production using crowdfunding platforms.<sup>49</sup> It may also suggest that the music industry is ripe for a significant economic recovery. A ritual economic view can interpret the recent financial crash in the music industry not merely as an inevitable result of digital downloads and piracy, but more broadly as a rejection of the over-commodification of music and a realignment of the economics of

music with its ritualistic role in human interaction.<sup>50</sup> In consideration of copyright specifically, it is common practice among many musicians today to encourage the infringement of their own works by reposting fan cover versions of their songs on social media. This phenomenon simply cannot be explained by a rational actor position. It can be explained by a theory of authorship that legitimates musicians as intrinsically motivated creators with a worldview that valorizes contribution to a shared community.

The orthodox deployment of political economy in cultural Marxism is adequately equipped to theorize the commodification of books, art, music, and other copyrightable content. It is perhaps equipped to theorize the cyclical resistance to hegemony by various subcultures and their inevitable absorption into the mainstream. What it cannot explain is the consistency with which ritual symbolism reasserts itself into the economic decisions of content creators and their audiences. When diverse theorists such as Raymond Williams in cultural studies, E. Christian Wells in anthropology, and Jacques Attali in economics begin to converge in an understanding of orthodox political economy as hindered by its inability to explain the ritual behavior evident in the economics of cultural production, the history of cultural production is ripe for revision. As the intersection of law, politics, and creativity, the history of copyright seems a logical place for that revision to begin.

If a central justification of statutory copyright law is the protection of content creators, a better understanding of their strengths and vulnerabilities is essential to informing the copyright reform discourse. If there is any hope of taking the liberty of creativity back from modes of production that are currently dominant, that hope is more likely to be realized by empowering content creators to make informed choices about the ownership of their work than from legislating equality into an innately exploitable environment. As such, the thrust of scholarly inquiry into the history of copyright must move beyond efforts to suggest avenues for legal reform, especially when the history of copyright policy reform shows that research-based suggestions are often ignored.<sup>51</sup> Instead, it must find ways for content creators to obtain some agency in the making of their own history. Copyright is a sphere in which the letter of the law and the spirit of the law are highly disparate. Future work on the history of copyright law that adopts the ritual economy framework proposed here can help to explain that division, and, hopefully, to mend it.

## Endnotes

---

1. Though much legal scholarship acknowledges copyright as itself the historical product of British censorship laws, the monopoly of the Stationer's Company, and the transition from a patronage model to a market model of artistic production. See for example Benjamin Kaplan, *An Unhurried View of Copyright* (New York: Columbia University Press, 1967) and Lyman Ray Patterson, *Copyright in Historical Perspective* (Nashville: Vanderbilt University Press, 1968).
2. Danby Pickering, *The Statutes at Large, from the Eight to the Twelfth Year of Queen Anne*, Vol. 12 (Cambridge: Printed by Joseph Bentham, Printer to the University, 1764), 82.
3. See Elizabeth L. Eisenstein, *The Printing Revolution in Early Modern Europe*, 2<sup>nd</sup> ed. (Cambridge, U.K.: Cambridge University Press, 2005).
4. The obvious exception being the content creator who also practices law.
5. The example of British copyright theory is illustrative as it relates to early statutory copyright, but not necessarily of international copyright policy at large. However, while the Anglo-American justification of copyright differs significantly from that of other countries, classical liberalism and cultural Marxism remain two theoretical frameworks that inform the copyright discourse globally.
6. John Durham Peters, "John Locke, the Individual, and the Origin of Communication," *Quarterly Journal of Speech* 75, no. 4 (November 1989): 391.
7. Ibid., 392.
8. Adam Smith, *The Wealth of Nations*, Vol. 1 (London: J. M. Dent & Sons Ltd., 1964), 400.
9. Pickering, *The Statutes at Large*, 82.
10. U.S. Constitution, art. 1, sec. 8, cl. 8. Note that this clause is sometimes referred to as "The Copyright and Patent Clause" or "The Progress Clause" as well.
11. Pickering, *The Statutes at Large*, 82. Consider the heading of the Statute of Anne that begins with the phrase "An act for the encouragement of learning..."

12. Karl Marx, "Estranged Labour," in *Karl Marx, Frederick Engels Collected Works Volume 3: Karl Marx, March 1843-August 1844*, ed. and trans. Jack Cohen et al. (London: Lawrence & Wishart, 2010), 270.
13. Ibid.
14. The word "outcome" is deliberately used here to sidestep the debate over natural law versus natural rights in Lockean philosophy. Whatever one's view in this debate, it is clear that Locke's appeal to a natural basis for private property is in direct contrast with Marx's conception of the nature of labor.
15. Marx, "Estranged Labour," 274 [emphasis in original].
16. Karl Marx, *A Contribution to the Critique of Political Economy*, ed. Maurice Dobb, trans. S. W. Ryazanskaya (New York: International Publishers, Inc., 1970). The preface is the most commonly cited passage for the origins of the base/superstructure model, though references to it range widely throughout Marx's writings. Note that the *degree* of determinacy between the base and the superstructure is the subject of much conceptual debate in cultural Marxism.
17. Moyra Haslett, *Marxist Literary and Cultural Theories* (New York: St. Martin's Press, 2000), 5.
18. See Terry Eagleton, *The Ideology of the Aesthetic* (Oxford: Basil Blackwell, 1990) and Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 2006).
19. Haslett, *Marxist Cultural Theories*, 31. See Walter Benjamin, "The Work of Art in the Age of Mechanical Reproduction," in *Illuminations: Essays and Reflections*, ed. Hannah Arendt, trans. Harry Zohn (New York: Schocken, 1988) for Benjamin's original argument.
20. Raymond Williams, "Base and Superstructure in Marxist Cultural Theory," in *Problems in Materialism and Culture: Selected Essays* (London: Verso, 1980), 31-35.
21. Ibid., 35-40. See also Antonio Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, ed. and trans. Quintin Hoare and Geoffrey Nowell Smith (London: Lawrence and Wishart, 1971), 245, 364-367.
22. Janice Peck, "Itinerary of a Thought: Stuart Hall, Cultural Studies, and the Unresolved Problem of the Relation of Culture to 'Not Culture,'" *Cultural Critique* 48, no. 1 (Spring 2001): 242.

23. James W. Carey, "The Chicago School and the History of Mass Communication Research," in *James Carey: A Critical Reader*, ed. Eve Stryker Munson and Catherine A. Warren (Minneapolis: University of Minnesota Press, 1997), 24.
24. Herbert Blumer, *Symbolic Interactionism: Perspective and Method* (Englewood Cliffs, N.J.: Prentice-Hall, 1969), 78-79.
25. Ibid., 82. Blumer wrote, "I know of no instance of human group action to which the three premises [of symbolic interaction] do not apply. The reader is challenged to find or think of a single instance which they do not fit."
26. Carey, "The Chicago School," 17.
27. Ibid., 25.
28. Ibid., 26.
29. Ibid.
30. James W. Carey, "A Cultural Approach to Communication," in *Communication as Culture: Essays on Media and Society* (Boston: Unwin Hyman, 1989), 18.
31. While economic anthropology as a whole is sometimes posed as a contrasting model to political economy because of its focus on exchange rather than production, the theory of ritual economy reconciles these two paradigms.
32. Patricia A. McAnany and E. Christian Wells, "Toward a Theory of Ritual Economy," in *Dimensions of Ritual Economy (Research in Economic Anthropology Vol. 27)*, eds. E. Christian Wells and Patricia A. McAnany (Bingley, U.K.: JAI Press, 2008), 1.
33. Ibid., 3. This introductory chapter by McAnany and Wells attributes the formulation of this definition to Wells's previous work, but it is codified in this exact wording for the first time in the reference noted here.
34. E. Christian Wells and Karla L. Davis-Salazar, *Mesoamerican Ritual Economy: Archaeological and Ethnological Perspectives* (Boulder: University Press of Colorado, 2007), 2 [emphasis in original].
35. Martin Jay, *Permanent Exiles: Essays on the Intellectual Migration From Germany to America* (New York: Columbia University Press, 1986), 16.
36. Ibid., 18.



37. Which is not to say that these self-narrations should not be the subject of investigation, but simply that an individual's explanation of her or his own creative process must be considered as evidential on some level.
38. Bernard Miège, *The Capitalization of Cultural Production* (London: Journeymen Press, 1989), 76.
39. See Peter Jaszi, "Toward a Theory of Copyright: The Metamorphoses of 'Authorship,'" *Duke Law Journal* 1991, no. 2 (1991). While I agree that the poststructuralist critique of authorship reveals some important theoretical inconsistencies in the intellectual history of copyright, my central argument here is that the deconstruction of authorship also has inherent theoretical problems. Thus, a turn towards the ritual economic view may map out a theoretical framework that can move beyond both authorship veneration and authorship deconstruction to approach a true totality of authorship in individual, social, and political economic spheres. This assertion may in fact be a way to reconcile the contradiction that Jaszi admits in his conclusion that his study cannot resolve.
40. Eagleton, *Ideology of the Aesthetic*, 65.
41. Michel Foucault, "What is an Author?" in *The Foucault Reader*, ed. Paul Rabinow (New York: Pantheon, 1984), 107.
42. Michel Foucault, "10 January 1979," in *The Birth of Biopolitics: Lectures at the Collège de France, 1978-1979*, ed. Arnold I. Davidson, trans. Graham Burchell (New York: Palgrave Macmillan, 2008), 3.
43. Ibid.
44. Wells, *Mesoamerican Ritual Economy*, 2.
45. Blumer, *Symbolic Interactionism*, 88.
46. Jacques Attali, *Noise: The Political Economy of Music*, trans. Brian Massumi (Minneapolis: University of Minnesota Press, 1985), 11.
47. Ibid., 4.
48. Ibid., 133-148. Note Attali's insistence that his economy of composition "is not a return to ritual" is meant to communicate that it should be seen as a progression, not a regression, in the development of music history. Attali's theorization of popular music economics is compatible with the theory of ritual economy as articulated here.



49. In consideration of these phenomena, the author suggests the following articles published in the annual *Journal of the Music and Entertainment Industry Educators Association*: Luiz Augusto Buff and Peter Alhadeff, "Budgeting for Crowdfunding Rewards," (2013); Monika Herzig and David Baker, "Beyond Jamming: A Historical and Analytical Perspective on the Creative Process," (2014); Paul Linden, "Race, Hegemony, and the Birth of Rock & Roll," (2012); Paul Linden, "Malcolm Chisholm: An Evaluation of Traditional Audio Engineering," (2013); Casey Lowdermilk, "Improvisation and Reciprocity: An Analysis of the Jam Band Community and its Unique Business Model," (2007); Simeon Pillich, "Cautionary Tales from the Changing World of the Hollywood Film and Television Studio Musician," (2011); Cheryl L. Slay, "Slaying the Starving Artist Paradigm and Teaching Professionalism in the Entertainment Business: The Entertainment Law and Professionalism Clinic," (2012); and Alan Williams, "Navigating Proximities: The Creative Identity of the Hired Musician," (2010).
50. See Jason Lee Guthrie, "Economy of the Ether: Early Radio History and the Commodification of Music," *Journal of the Music and Entertainment Industry Educators Association* 14, no. 1 (2014): 288-290.
51. Jessica Litman, "The Politics of Intellectual Property," *Cardozo Arts & Entertainment Law Journal* 27, no. 2 (November 2009): 313-320.

## References

---

- Anderson, Benedict. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso, 2006.
- Attali, Jacques. *Noise: The Political Economy of Music*. Translated by Brian Massumi. Minneapolis: University of Minnesota Press, 1985.
- Benjamin, Walter. "The Work of Art in the Age of Mechanical Reproduction." In *Illuminations: Essays and Reflections*, edited by Hannah Arendt, translated by Harry Zohn, 217–251. New York: Schocken, 1988.
- Blumer, Herbert. *Symbolic Interactionism: Perspective and Method*. Englewood Cliffs, N.J.: Prentice-Hall, 1969.
- Buff, Luiz Augusto, and Peter Alhadeff. "Budgeting for Crowdfunding Rewards." *Journal of the Music and Entertainment Industry Educators Association* 13, no. 1 (2013): 27–44.
- Carey, James W. "The Chicago School and the History of Mass Communication Research." In *James Carey: A Critical Reader*, edited by Eve Stryker Munson and Catherine A. Warren, 14–33. Minneapolis: University of Minnesota Press, 1997.
- . "A Cultural Approach to Communication." In *Communication as Culture: Essays on Media and Society*, 13–36. Boston: Unwin Hyman, 1989.
- Eagleton, Terry. *The Ideology of the Aesthetic*. Oxford: Basil Blackwell, 1990.
- Eisenstein, Elizabeth L. *The Printing Revolution in Early Modern Europe*. 2<sup>nd</sup> ed. Cambridge, U.K.: Cambridge University Press, 2005.
- Foucault, Michel. "10 January 1979." In *The Birth of Biopolitics: Lectures at the Collège de France, 1978–1979*, edited by Arnold I. Davidson, translated by Graham Burchell, 1–25. New York: Palgrave Macmillan, 2008.
- . "What is an Author?" In *The Foucault Reader*, edited by Paul Rabinow, 101–120. New York: Pantheon, 1984.
- Gramsci, Antonio. *Selections from the Prison Notebooks of Antonio Gramsci*. Edited and translated by Quintin Hoare and Geoffrey Nowell Smith. London: Lawrence and Wishart, 1971.
- Guthrie, Jason Lee. "Economy of the Ether: Early Radio History and the Commodification of Music." *Journal of the Music and Entertainment Industry Educators Association* 14, no. 1 (2014): 279–298.

- Haslett, Moyra. *Marxist Literary and Cultural Theories*. New York: St. Martin's Press, 2000.
- Herzig, Monika, and David Baker. "Beyond Jamming: A Historical and Analytical Perspective on the Creative Process." *Journal of the Music and Entertainment Industry Educators Association* 14, no. 1 (2014): 183-217.
- Jaszi, Peter. "Toward a Theory of Copyright: The Metamorphoses of 'Authorship.'" *Duke Law Journal* 1991, no. 2 (1991): 455-502.
- Jay, Martin. *Permanent Exiles: Essays on the Intellectual Migration From Germany to America*. New York: Columbia University Press, 1986.
- Kaplan, Benjamin. *An Unhurried View of Copyright*. New York: Columbia University Press, 1967.
- Linden, Paul. "Malcolm Chisholm: An Evaluation of Traditional Audio Engineering." *Journal of the Music and Entertainment Industry Educators Association* 13, no. 1 (2013): 75-96.
- . "Race, Hegemony, and the Birth of Rock & Roll." *Journal of the Music and Entertainment Industry Educators Association* 12, no. 1 (2012): 43-67.
- Litman, Jessica. "The Politics of Intellectual Property." *Cardozo Arts & Entertainment Law Journal* 27, no. 2 (November 2009): 313-320.
- Lowdermilk, Casey. "Improvisation and Reciprocity: An Analysis of the Jam Band Community and its Unique Business Model." *Journal of the Music and Entertainment Industry Educators Association* 7, no. 1 (2007): 159-176.
- Marx, Karl. *A Contribution to the Critique of Political Economy*. Edited by Maurice Dobb. Translated by S. W. Ryazanskaya. New York: International Publishers, Inc., 1970.
- . "Estranged Labour." In *Karl Marx, Frederick Engels Collected Works Volume 3: Karl Marx, March 1843-August 1844*, edited and translated by Jack Cohen et al., 270-282. London: Lawrence & Wishart, 2010.
- McAnany, Patricia A., and E. Christian Wells. "Toward a Theory of Ritual Economy." In *Dimensions of Ritual Economy (Research in Economic Anthropology, Volume 27)*, edited by E. Christian Wells and Patricia A. McAnany, 1-16. Bingley, U.K.: JAI Press, 2008.
- Miège, Bernard. *The Capitalization of Cultural Production*. London: Journeymen Press, 1989.

- Patterson, Lyman Ray. *Copyright in Historical Perspective*. Nashville: Vanderbilt University Press, 1968.
- Peck, Janice. "Itinerary of a Thought: Stuart Hall, Cultural Studies, and the Unresolved Problem of the Relation of Culture to 'Not Culture.'" *Cultural Critique* 48, no. 1 (Spring 2001): 200-249.
- Peters, John Durham. "John Locke, the Individual, and the Origin of Communication." *Quarterly Journal of Speech* 75, no. 4. (November 1989): 387-399.
- Pickering, Danby. *The Statutes at Large, from the Eight to the Twelfth Year of Queen Anne*, Volume 12. Cambridge: Printed by Joseph Bentham, Printer to the University, 1764.
- Pillich, Simeon. "Cautionary Tales from the Changing World of the Hollywood Film and Television Studio Musician." *Journal of the Music and Entertainment Industry Educators Association* 11, no. 1 (2011): 113-145.
- Slay, Cheryl L. "Slaying the Starving Artist Paradigm and Teaching Professionalism in the Entertainment Business: The Entertainment Law and Professionalism Clinic." *Journal of the Music and Entertainment Industry Educators Association* 12, no. 1 (2012): 195-208.
- Smith, Adam. *The Wealth of Nations*, Volume 1. London: J. M. Dent & Sons Ltd. First included in Everyman's Library 1910, Last reprint 1964.
- Wells, E. Christian, and Karla L. Davis-Salazar. *Mesoamerican Ritual Economy: Archaeological and Ethnological Perspectives*. Boulder: University Press of Colorado, 2007.
- Williams, Alan. "Navigating Proximities: The Creative Identity of the Hired Musician." *Journal of the Music and Entertainment Industry Educators Association* 10, no. 1 (2010): 59-76.
- Williams, Raymond. "Base and Superstructure in Marxist Cultural Theory." In *Problems in Materialism and Culture: Selected Essays*, 31-49. London: Verso, 1980.



**JASON LEE GUTHRIE** is a Ph.D. Candidate in Mass Communication at The University of Georgia. His research explores media history, copyright law, and the music business. He teaches Media Production, Media Management, and Media Writing. He has toured with several bands, he managed a national concert tour in 2007, and he released “Cities,” an album of original folk material, in 2011. Guthrie received a Bachelor’s in Mass Communication from University of North Carolina-Wilmington

in 2009 and a Master’s in Educational Media from Appalachian State University in 2011. He is a member of MEIEA, the Appalachian Studies Association, and the American Journalism Historian’s Association.

Note: the author wishes to thank Dr. Jay Hamilton of the University of Georgia for his insightful comments and long suffering contributions to the argument presented in this article.