

COPYRIGHT LAW REVISION

STUDIES

PREPARED FOR THE

SUBCOMMITTEE ON
PATENTS, TRADEMARKS, AND COPYRIGHTS

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

EIGHTY-SIXTH CONGRESS, FIRST SESSION

PURSUANT TO

S. Res. 53

STUDIES 1-4

1. The History of U.S.A. Copyright Law Revision
From 1901 to 1954
2. Size of the Copyright Industries
3. The Meaning of "Writings" in the Copyright
Clause of the Constitution
4. The Moral Right of the Author



Printed for the use of the Committee on the Judiciary

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¹ The late Hon. William Langer, while a member of this committee, died on Nov. 8, 1959.

FOREWORD

This is the first of a series of committee prints to be published by the Committee on the Judiciary Subcommittee on Patents, Trademarks, and Copyrights presenting studies prepared under the supervision of the Copyright Office of the Library of Congress with a view to considering a general revision of the copyright law (title 17, United States Code).

The present copyright law is essentially the statute enacted in 1909, though that statute was codified in 1947 and has been amended in a number of relatively minor respects. In the half century since 1909 far-reaching changes have occurred in the techniques and methods of reproducing and disseminating the various categories of literary, musical, dramatic, artistic, and other works that are the subject matter of copyright; new uses of such works and new industries for their dissemination have grown up; and the organization of the groups and industries that produce or utilize such works has undergone great changes. For some time there has been widespread sentiment that the present copyright law should be reexamined comprehensively with a view to its general revision in the light of present-day conditions.

Beginning in 1955, the Copyright Office of the Library of Congress, pursuant to appropriations by Congress for that purpose, has been conducting studies of the copyright law and practices. A number of these have been completed and others are in the process of preparation. Four of the completed studies (comprising this first committee print), are general surveys of a background nature. The other studies (to appear in succeeding committee prints) deal with substantive problems which appear to call for consideration in a general revision of the law; they are designed to review the problems objectively and to present the major issues to be resolved, as well as alternatives for their resolution, together with the views submitted to the Copyright Office by various persons on these issues.

The subcommittee believes that these studies will be a valuable contribution to a better understanding of copyright law and practice and will be extremely useful in considering the problems involved in proposals to revise the copyright law.

The present committee print contains four general studies of a background nature: (1) "The History of U.S.A. Copyright Law Revision From 1901 to 1954," by Abe A. Goldman, Chief of Research of the Copyright Office, with a supplementary note on "Revision of Patent and Trademarks Laws"; (2) "Size of the Copyright Industries," by William M. Blaisdell, economist of the Copyright Office; (3) "The Meaning of 'Writings' in the Copyright Clause of the Constitution," prepared by staff members of the New York University Law Review

under the guidance of Prof. Walter J. Derenberg of the New York University School of Law; and (4) "The Moral Right of the Author," by William Strauss, attorney-advisor of the Copyright Office.

It should be clearly understood that in publishing these studies the subcommittee does not signify its acceptance or approval of any statements therein. The views expressed in the studies are solely those of the authors.

JOSEPH C. O'MAHONEY,

Chairman, Subcommittee on Patents, Trademarks, and Copyrights, Committee on the Judiciary, U.S. Senate.

COPYRIGHT OFFICE NOTE

The studies presented herein are part of a series of studies prepared for the Copyright Office of the Library of Congress under a program for the comprehensive reexamination of the copyright law (title 17 of the United States Code) with a view to its general revision.

The Copyright Office has supervised the preparation of the studies in directing their general subject matter and scope, and has sought to assure their objectivity and general accuracy. However, any views expressed in the studies are those of the authors and not of the Copyright Office.

ABE A. GOLDMAN,
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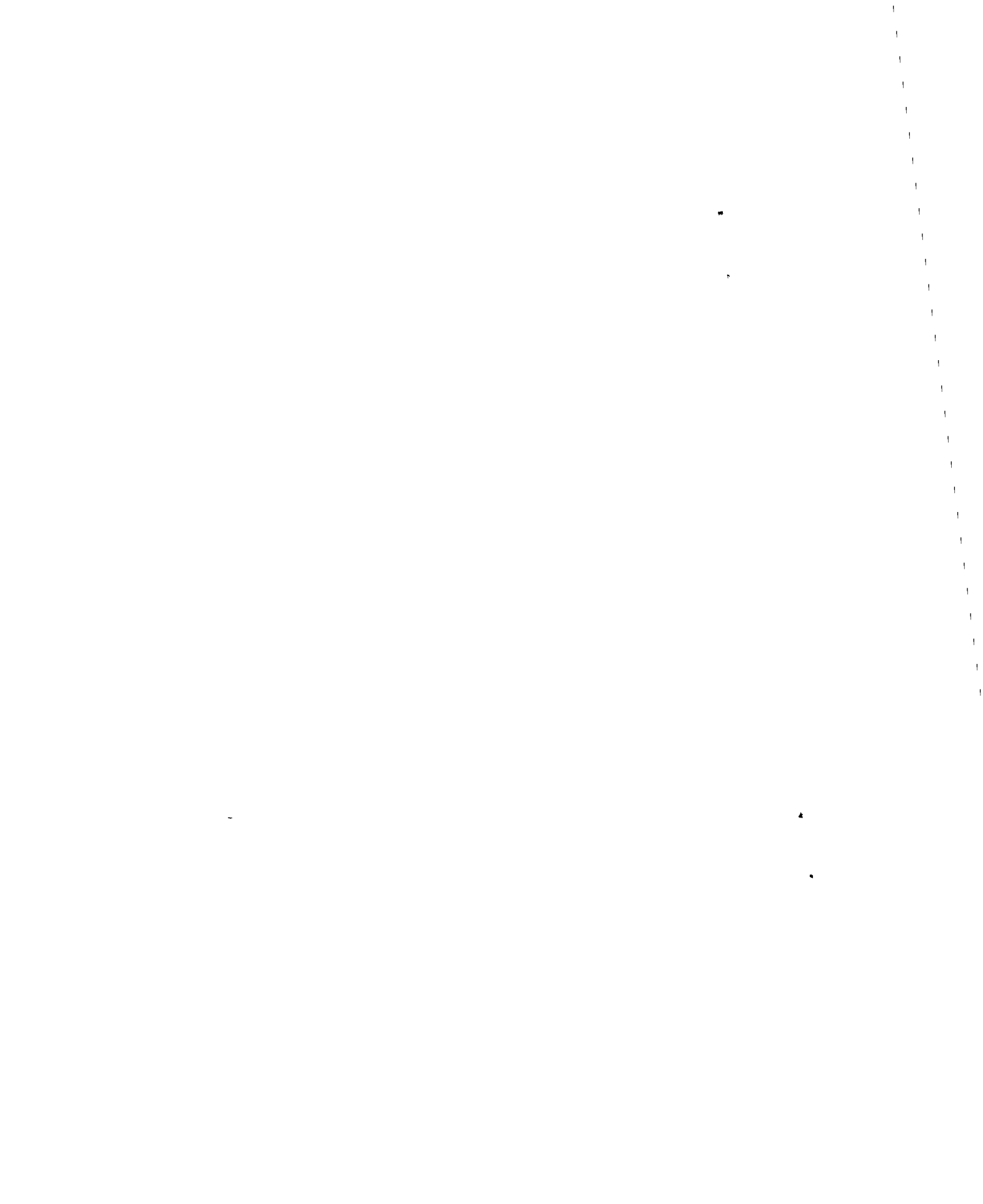
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STUDY NO. 2
SIZE OF THE COPYRIGHT INDUSTRIES

BY WILLIAM M. BLAISDELL

May 1959



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PREFATORY NOTE

This study presents background economic data concerning (1) the various industries in the United States that exploit copyrightable materials for profit and (2) the revenues of creators of such materials.

Some of the economic data presented in this study are compiled here for the first time and are based on the available information which is incomplete in some respects. It must therefore be recognized that some of the statistical computations represent estimates based on the available information.

**THE COPYRIGHT OFFICE,
LIBRARY OF CONGRESS.**

SIZE OF THE COPYRIGHT INDUSTRIES

I. THE ECONOMIC SIZE-IMPORTANCE OF THE COPYRIGHT INDUSTRIES

A. THE PROBLEM

Of what quantitative importance in the total economy of the United States are the industries that depend upon the exploitation of copyrightable material? What parts of the economy are dependent upon such material? Some measure of size is required; what logical measure is appropriate to indicate the size-importance of the copyright industries? How does the size-importance of the copyright industries compare with that of other industries?

B. THE RESULTS—SUMMARY

Study of these questions has led to the following conclusions:

1. The segments of the economy which exploit copyrightable material for purposes of profit are the basis of any such investigation; these may be either manufacturing, processing, wholesale, or retail activities, and together they may be called the "copyright industries."

2. The most suitable measure of the economic size-importance of the copyright industries is the contribution which they make to the national income. This unit of measure is applicable to any level of economic activity; it also avoids duplication among the various economic levels, and thus lends itself to summation.

3. In 1954, the copyright industries, as a group, contributed an estimated \$6.1 billion to the total national income of \$299.7 billion. For purposes of comparison, it is noted that the copyright industries contributed more than mining or banking or the electric and gas utilities; they contributed slightly less than the automobile manufacturing industry or railroad transportation. These comparisons are shown in table I, page 28.

4. Individual copyright industries range in size-importance from a high of \$1,550 million national income originated by the newspaper publishing industry, down to \$22 million national income originated by retail music stores. The economic size-importance of individual copyright industries is shown in table II, page 28.

TABLE I.—*Selected national income estimates, calendar year 1954*¹

	<i>Billions</i>
National income of the United States.....	\$299.7
National income originated by—	
Farms.....	16.6
Manufacture of food and kindred products.....	8.0
Railroad transportation.....	6.6
Manufacture of automobiles and equipment.....	6.5
Manufacture of electrical machinery.....	6.4
COPYRIGHT INDUSTRIES.....	6.1
Medical and other health services.....	6.1
Electric and gas utilities.....	5.7
Mining.....	5.2
Banking.....	4.5
Telephone, telegraph, and related services.....	4.4
Hotels and lodging places.....	1.6

¹ From U.S. Department of Commerce, Office of Business Economics, "Survey of Current Business," July 1955, p. 14, table 13; except for copyright industries which are shown as estimated in this study.

TABLE II.—*Estimated national income originated by each of the copyright industries, calendar year 1954*

Standard industrial classification code No. ¹	Industry	National income originated (millions)
271.....	Newspaper publishing.....	\$1,550
272.....	Periodical publishing.....	576
273.....	Book publishing.....	300
274.....	Miscellaneous publishing.....	109
275.....	Commercial printing ²	246
276.....	Lithographing.....	104
277.....	Greeting cards.....	95
278.....	Book binding and related industries ²	62
3663.....	Phonograph record manufacturing.....	64
6942.....	Bookstores.....	32
6994.....	Newsdealers and newsstands.....	36
6995.....	Music stores ²	22
7332.....	Commercial photography.....	74
731.....	Advertising.....	716
735.....	News syndicates.....	64
77.....	Radio broadcasting and television.....	533
78.....	Motion pictures.....	917
792.....	Theaters and theatrical producers (except motion pictures).....	109
795.....	Bands, orchestras, and entertainers.....	58
7999.....	Amusement and recreation services, n.e.c. ² (operation of automatic coin-operated phonographs).....	242
—	Miscellaneous copyright industries.....	125
	Total.....	6,124

¹ As set forth in the "Standard Industrial Classification Manual," Bureau of the Budget, 1945. This publication will be cited as "SIC Manual."

² Parts of this code have been excluded as being noncopyright in nature. For details of the estimates in this table, see app. A, infra.

C. THE COPYRIGHT INDUSTRIES DEFINED

As such, the individual creator of literary or artistic property cannot be considered to be part of any copyright industry. Creation of such property does not imply economic importance; only if the property is exploited for profit purposes does it assume importance from the economic viewpoint. Therefore, any economic activity which exploits copyrightable material for purposes of profit should be included among the copyright industries.

The various kinds of copyrightable materials are classified in 13 categories in the copyright law. This classification is further broken down into 14 categories in the Annual Report of the Register of Copyrights and it is the major source of identification for the copyright industries. Most of these 14 categories can be more or less closely associated with accepted statistical classifications of industries that exploit such materials.

However, a number of industries which participate in the exploitation of copyrightable material for profit do not appear as registrants of copyrightable materials. These include phonograph record manufacturers and retailers; certain other users of copyright music, such as bands, orchestras, and jukebox operators; and retail outlets for books, periodicals, and music.

Parts of other miscellaneous industries also exploit copyrightable materials for profit. In order to cover these, insofar as they are engaged in exploiting such material for profit, an arbitrary addition has been made to the total size-importance of the copyright industries. (See table II, p. 28, final item.)

It should be observed that the copyright industries, as defined for purposes of this study, do not cover all commercial uses of copyrightable material. Virtually every industry makes some incidental use of such material, for example, in reports and publications and in designing, packaging, and advertising its products. The extent of such incidental uses cannot be estimated, but would probably be considerable in aggregate volume. This study, however, pertains only to those industries that are engaged in the business of exploiting copyrightable material for profit.

The list of industries shown in table II, page 28, has been developed from the 14 categories of copyrightable material specified in the 1954 Annual Report of the Register of Copyrights, together with the other groups which exploit copyrightable material to some extent. For statistical purposes, the classifications of the Copyright Office have been adjusted to conform with the Standard Industrial Classification of the Bureau of the Budget, as shown in the "SIC Manual."

D. METHODOLOGY: THE MEASUREMENT OF ECONOMIC SIZE-IMPORTANCE

The more usual measures of economic size-importance are not appropriate for measuring the size-importance of the copyright industries. "Net income" or "profitability" both fail to include firms which may be important but unprofitable. "Number of employees" does not accurately reflect economic importance: a highly mechanized industry with only a few employees may make an important contribution to the economy. "Capital investment" is not necessarily proportional to the contribution of the firm to the economy; capital may be turned over rapidly or slowly. "Total sales" ("total receipts" or "total revenues") usually includes more than the contribution of the firm to the economy, since it is the rare firm that does not purchase raw materials, components, or inventory from other firms; such purchases are reflected in the final sales prices but they do not represent a contribution of that firm to the economy. "Total sales" is particularly inappropriate as a measure of economic size-importance in situations where interdependent industries are among those to be measured; e.g., if the sales figure for

book publishers, book wholesalers, and book retailers were added, serious duplication would exist in the final total. It is not to be inferred that the units of measure discussed in this paragraph are useless for other purposes; it is only concluded that they are not suitable for measurement of the size-importance of the copyright industries.

The concept of "national income" may be used to measure the economic size-importance of an individual industry in the form of "national income originated" by that industry. "National income" is defined as "the aggregate earnings of labor and property which arise from current production."¹ It may be measured by adding together the payments which are made to the factors of production. These payments comprise: (a) the compensation of all types of workers; (b) interest; (c) rent, including payments for the use of copyright property; and (d) profits. Only these categories of payment reflect unique and unduplicated contributions to the current production process, and they afford the basis for a unit of measurement of economic size-importance which is comparable as among industries and which may be summated without duplication to indicate the size-importance of a group of industries. The figures in table II, page 28, have been estimated for the various copyright industries on the basis of this concept.

E. METHODOLOGY: METHODS OF ESTIMATION

In general, the annual estimates of national income of the Office of Business Economics of the Department of Commerce form the basis of the size-importance estimates of the copyright industries. Because of the varying kinds of data available, different methods have been used for different copyright industries. In two cases—radio broadcasting and television, and motion pictures—the estimates of the OBE are used without change. In other cases it has been necessary to extract the copyright industries from the industrial categories shown by the OBE. Of greatest importance as guides to the breakdown of the OBE national income figures have been the "value added by manufacture"² (from Bureau of Census sources) and "total annual wages paid" (from Bureau of Labor Statistics sources). In some instances it has been necessary to devise special techniques to overcome the paucity of data.

It has been necessary to choose the calendar year 1954 for these estimates because the "1954 Census of Business" (Bureau of the Census) is the most recent available.

Details of the methods of estimation applied to each of the individual copyright industries are set forth in appendix A, *infra*.

II. REVENUES OF CREATORS OF COPYRIGHTABLE MATERIALS

A. THE PROBLEM ANALYZED

As a part of the entire national income originated by the copyright industries, what contribution is made by creators of copyright material? The amount of this contribution will equate with the revenues received by creators in exchange for all creative effort which finds its

¹ Department of Commerce, Office of Business Economics, "National Income, 1954," p. 1.
² "National income originated" is a refined form of the "value added by manufacture." Cf. Department of Commerce, Office of Business Economics, "National Income, 1954," p. 176, footnote 1.

way into commercial channels. Estimation of the amount of this contribution in each of the copyright industries, and in the copyright industries as a group, is the problem encountered in section II of this study.

In the final analysis, all copyrightable materials are created by individuals. However, they may be created: (a) on an independent basis; (b) under a free-lance contract with others; (c) under an employee-for-hire contract with others which provides for specific creative services; or (d) under an employment contract for generalized services which contribute to or enhance the copyrightable elements in other copyrightable materials. Independent (i.e., nonemployed) creators have full control of their created works, and they may lease or sell them at will.

Under free-lance contracts, creators usually agree to create a certain work for which they will be paid a specified percentage or amount, either as purchase price or royalty, or both. Under employee-for-hire contracts, the employee usually transfers all rights in his creative work to his employer. This may be done by an employee hired to do creative work specifically or it may be done by an employee hired to do more generalized work which contributes to the copyrightable elements in other creative work. Creative work done under employee-for-hire contracts may be called "creation by a corporate author."

Within this framework, three major groups may be recognized in estimating the revenues of creators. Group I may be called "commercial users": commercial organizations that purchase or lease copyrightable materials for commercial use, paying the individual or corporate creator either an outright purchase price or a continuing royalty, or a combination of the two. Commercial users are a major source of revenues paid to individual creators or their agents. Industries in this group may also be called the "commercial copyright industries."

Group II may be called "creator-users": commercial organizations which employ individual creators on an employee-for-hire basis, taking ownership to the works created by the latter; they also create in a corporate sense, i.e., through editing, arranging, etc., they make creative additions to the work of the individual creators whom they hire. For example, through editing, arranging, combining, etc., publishers of a magazine add to the individual creative work of story authors and advertising agencies and obtain copyright on the entire magazine. Industries in this group may also be called the "creative copyright industries."

Group III comprises "individual creators," not employees-for-hire, who handle their copyrightable material as individuals and receive payment for the commercial utilization of that material frequently, although not always, directly from commercial users and creator-users.

B. METHODS OF ESTIMATION

Actual amounts paid by commercial users (group I) for the right to exploit copyrightable materials may be used directly as a measure of the revenues of creators. Similarly, the actual amounts received by individual creators (group III) for the commercial use of their copyrightable works may be used directly. "Double counting" as between those two groups must be avoided.

Creator-users (group II) present a different measurement problem. When an organization hires employees for specific creative tasks, and also has on its staff other employees who in the course of their more generalized duties increase the copyrightable product of the specific creative personnel, and also has on its staff still other employees who carry on no direct or indirect creative work but in the course of generalized organizational or administrative activities enhance still further the values of contributors, editors, and arrangers, then the question arises as to just how much the organization as a whole "creates." For purposes of this study, the contribution of such a firm (or industry) to the national income has been accepted as the most appropriate basis for measurement of payments for creative work. Contribution to national income includes payments by the firm or industry of "compensation of employees, profits of corporate and unincorporated enterprises, net interest, and rental income of persons," the last item including "royalties received by persons from patents, copyrights, and rights to natural resources."³ The estimates of revenues of creators for group II industries are based on the contribution of the industry to national income as estimated by the Office of Business Economics of the Department of Commerce.

In adding the estimates of the three groups in order to obtain a total figure for the revenues of creators, it is possible to combine the three estimates without duplication. All three of the groups include the compensation of employed and individual creators, and group II includes additional revenues for the "corporative creativity" which inheres in those industries.

The payments of groups I and II are largely duplicated in the receipts of individual creators or other wage and royalty recipients. In order to avoid double counting, *revenues received by individual creators (group III)* may not be counted to the extent that they are already measured by the *payments made to individual creators* by the other two groups. However, individual creators (group III) receive directly certain payments which are not included among the estimates of the payments made by the other two groups.

C. THE RESULTS—SUMMARY

The following table summarizes the estimates of creators' revenues in the three groups in 1954:

[Millions of dollars]

	From corporate creation	From non-corporate creation	Total creators' revenues
Commercial users (group I).....		\$28	\$28
Creator-users (group II).....	\$2,419	280	2,709
Individual creators (group III).....		35	35
Total.....	2,419	423	2,842

These figures are estimates of the revenues received by creators in 1954, in the form of wages, salaries, profits, interest, and royalties,

³ Department of Commerce, Office of Business Economics, "National Income, 1954," pp. 1 and 59.

from the assignment or contractual commercial utilization of copy-rightable materials.

1. Revenues of creators from commercial users (group I)

This group includes the industries which purchase or lease copy-rightable material for commercial use. They may purchase the copy-right outright, pay continuing royalties, or make payments which combine both methods. These industries add little if anything to the copyrightable content of the materials which they purchase or lease. They are primarily organizations which arrange for and promote the commercial utilization of materials which they obtain from other persons; they "exploit" copyrights in a commercial and business sense. It is recognized that some of the industries included in this group may from time to time enhance the copyrightable elements of the materials which they utilize. However, the creative element in their operations is not of major importance, and for purposes of this study, they are presumed to add nothing creative to the copyrights which they lease or purchase.

The categories of industries which purchase or lease copyrightable materials for commercial use are book publishers, phonograph record manufacturers, theatrical producers, music publishers, broadcasters and networks, and bands, orchestras, etc. The payments made by each of these groups for the commercial use of copyrightable materials are explained in detail in appendix B, and are as follows:

	<i>Millions</i>
Book publishers (excluding subscription reference books) ¹ -----	\$56.4
Phonograph record manufacturers-----	2.7
Theatrical producers-----	16.9
Broadcasters and networks-----	20.0
Bands, orchestras, etc. ² -----	2.0
Music publishers-----	2.0
Total -----	98.0

¹ Included in group II estimates, p. 34, *infra*.

² Included in group III estimates, p. 34, *infra*.

2. Revenues of creators from creator-users (group II)

The group of creator-users present the most difficult problems of estimation of any of the three groups. Included in this group are commercial organizations which are involved with copyrightable material in three relationships:

(a) They employ individuals who as employees-for-hire create copyrightable material which becomes the property of the employer;

(b) They purchase publication rights to materials created by individuals acting independently or through agents;

(c) They create copyrightable material in a corporate sense; i.e., they combine the creative work of individuals produced either as free agents or as employees and in the course of combining these works they add to them in such a way as to make a new copyrightable work. The payments which these organizations make to individual creators, as wages, or as purchase prices for copyrightable material, or as royalties, include only a part of the payments for creative work made by them. In addition, the payments which they make to editors, compilers, etc., in fact, all the payments made by them as contributions to the national income (i.e., wages, salaries, rents, and royalties), may be counted as payments for creative processes. In this situation, the estimates made for the contributions to national income of these

industrial groups may be used as a starting point to estimate the volume of creators' revenues.

The categories of industries in this group, which are creators both in the sense of employing individuals for their creative efforts and also in the "corporate" creation of copyrightable materials, are newspaper publishers, periodical publishers, subscription reference book publishers, miscellaneous publishers, greeting card publishers, commercial photographers, advertising agencies, newspaper syndicates, and motion picture producers.

"Contribution to national income," which is used as a starting point for estimating group II revenues, excludes payments by an industry (costs) which are necessarily included in the selling price but which, nevertheless, are not a contribution to the national income because they are paid for materials purchased from others. As an example, newsprint is purchased by a newspaper publisher as a part of the process of publishing a newspaper, but it is not a part of the contribution which that publisher makes to national income. As stated *supra*, note 2, the contribution to national income, as estimated by the Office of Business Economics of the Department of Commerce, is a refined form of the "value added by manufacture" as estimated by the Bureau of the Census. It is this refined form of "value added by manufacture" which is used as a basis for measuring the payments made by group II industries for their creative effort.

The contributions to the national income made by the industries in this group may be counted as a measure of revenue for creative effort, to the extent that each of the industries (*a*) acts as a creator of copyrightable materials in the course of its entire business operation and (*b*) makes payments to individual creators on a free-lance or an employee-for-hire basis.

The estimates for group II are explained in detail in appendix B and are as follows:

	<i>Millions</i>
Newspaper publishers.....	\$1,000
Periodical publishers.....	450
Subscription reference book publishers.....	65
Miscellaneous publishers.....	48
Greeting card publishers.....	70
Commercial photography.....	74
Advertising agencies.....	600
Newspaper syndicates.....	50
Motion picture producers.....	350
Total.....	2,707

3. *Payments for the creative effort of individual creators (group III)*

In contrast to groups I and II, figures for which are estimated in detail in appendixes A and B, group III represents groups of individual creators *to whom* payments are made rather than groups of users *by whom* payments are made. It includes payments to composer-lyricists by performing rights' organizations and payments to individual creators not elsewhere classified: sculptors, painters, etc. Of course, by far the largest part of the revenues received by this group have already been included in the estimates in groups I and II.

Revenues of individual creators from performing rights' organizations for the year 1954 were estimated to be \$10 million. Revenues of the smaller groups of creators are estimated to be \$25 million.

Details of the estimates of creators' revenues for each individual copyright industry are shown in appendix B, *infra*.

III. APPENDIXES

APPENDIX A

ESTIMATES OF THE ECONOMIC SIZE-IMPORTANCE OF INDIVIDUAL COPYRIGHT INDUSTRIES

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1-9. SIC MAJOR GROUP 27. PRINTING, PUBLISHING, AND ALLIED INDUSTRIES

SIC GROUPS 271-279 INCLUSIVE; COMPONENTS OF GROUP 27

Estimated 1954 national income originated:

	<i>Millions</i>
1. 271 Newspaper publishing.....	\$1, 550
2. 272 Periodical publishing.....	576
3. 273 Book publishing.....	890
4. 274 Miscellaneous publishing.....	109
5. 275 Commercial printing (partial).....	246
6. 276 Lithographing (partial).....	104
7. 277 Greeting cards.....	95
8. 278 Bookbinding and related industries (partial).....	62
9. 279 Service industries for the printing trade.....	0

*Definitions*⁴

Major Group 27. Printing, publishing, and allied industries.—Includes establishments engaged in printing, publishing, and lithographing, those performing services for the printing trades and publishers regardless of whether or not they do their own printing.

Group 271. Newspapers.—Establishments primarily engaged in publishing and printing newspapers, whether or not they do their own printing, and whether or not they do printing other than newspapers.

Group 272. Periodicals.—Establishments primarily engaged in publishing periodicals, or in preparing, publishing, and printing periodicals, whether or not they perform their own printing.

Group 273. Books.—Establishments primarily engaged in publishing only, or in publishing and printing books and pamphlets; and those primarily engaged in printing only, or in printing and binding books and pamphlets, but not engaged in publishing.

Group 274. Miscellaneous publishing.—Establishments primarily engaged in publishing such products as maps, atlases, sheet music, and directories, or engaged in miscellaneous publishing activities, not elsewhere classified, whether or not engaged in printing.

Group 275. Commercial printing.—Establishments primarily engaged in commercial or job printing, including general printing shops specializing in printing newspapers and periodicals for others, and those which specialize in gravure, rotogravure, and rotary photogravure printing.

Group 276. Lithographing.—Establishments primarily engaged in preparing lithographic stones or metal lithographic plates, and in printing from such media; and those engaged in offset printing, photo-offset printing, and photolithographing. The greater part of the work done in these establishments is done on a job or custom basis, but in some cases lithographed calendars, commercial forms, maps, posters, decalcomanias, etc., are made for sale.

Group 277. Greeting cards.—Establishments primarily engaged in designing only, manufacturing only, or designing and manufacturing greeting cards for all occasions; such cards may be printed, lithographed, etched, or otherwise processed.

Group 278. Bookbinding and related industries.—For purposes of this study, this group includes only industry 2781, bookbinding, which includes establishments primarily engaged in edition, trade, job, and library bookbinding.

Group 279. Service industries for the printing trade.—This group includes establishments primarily engaged in typesetting, engraving and plate printing, photoengraving, electrotyping and stereotyping. Although some copyright material may be involved in the work of these establishments, it is believed to be very small in amount, and the whole group has been excluded for purposes of this study.

⁴These definitions are paraphrased, for purposes of condensation, from the "SIC Manual," vol. I, pt. 1, pp. 30-32.

Of statistical necessity, this entire group of copyright industries has been estimated in a group manner. National income estimates of the Office of Business Economics include an estimate for major group 27 only: There is no breakdown into the component industries. However, data from the 1954 Census of Manufacturers make a breakdown possible.

The 1954 Census of Manufacturers collected data on the "value added by manufacture" for major group 27 and for each of its component industries. From this, the percentage of the total "value added" created by each component group was calculated. Then the total "national income originated" by major group 27, from the Office of Business Economics, was broken down in the same proportions. As a final step, various portions of the component groups were excluded, as being noncopyright in nature.

The summary of these calculations is shown on the accompanying table III, column VI of that table showing the final results of the calculations, as set forth above.

This method assumes that the "national income originated" by each segment of major group 27 is proportionate to the "value added by manufacture" by that same segment. In group 27 as a whole the "value added by manufacture" is about one-third larger than the "national income originated", indicating the more "net" concept of the latter. Each of the three-digit groups is considered to be entirely of a copyright nature except commercial printing (275) and lithographing (276) which are considered to be one-fifth copyright; bookbinding and related industries (278) which is considered to be one-half copyright; and service industries for the printing trade (279) which is considered to be outside of the copyright concept and is excluded. In the cases of the commercial printing and lithographing (275 and 276) the judgments as to the portion which is of a copyright nature are arbitrary. In the case of bookbinding and related industries (278) only bookbinding (2781) as such is included as being of a copyright nature; in the year 1954 bookbinding (2781) as such originated about 43 percent of the "value added by manufacture" by the entire group 278,⁵ and this ratio will be used. From the description of service industries for the printing trades,⁶ it is considered that the entire group should be excluded as being too far removed from dependence on copyright.

⁵ Department of Commerce, Bureau of the Census, "1954 Census of Manufactures," Bulletin MC-27B, p. 4.

⁶ "SIC Manual," vol. I, pt. 1, pp. 31-32.

TABLE III.—*Estimated national income originated by printing, publishing, and allied industries, 1954 (SIC group 27 and component groups)*

[Dollar items in millions]

SIC code	Group or industry name	Value added by manufacture	Percentage breakdown	National income originated	Copyright national income originated
(I)	(II)	(III)	(IV)	(V)	(VI)
27	Printing, publishing, and allied industries.....	\$6,256	100.0	\$4,532	\$3,143
271	Newspapers.....	2,144	34.2	1,560	1,550
272	Periodicals.....	796	12.7	576	576
273	Books.....	539	8.6	390	390
274	Miscellaneous publishing.....	149	2.4	109	109
275	Commercial printing.....	1,358	21.7	983	246
276	Lithographing.....	579	9.2	417	104
277	Greeting cards.....	131	2.1	95	95
278	Bookbinding and related industries.....	191	3.2	145	62
279	Service industries for printing trade.....	369	5.9	267	0

SOURCES

Cols. I and II: "SIC Manual," vol. I, pt. 1, pp. 30-32.
 Col. III: Department of Commerce, Bureau of the Census, "1954 Census of Manufactures," Bulletin MC-27A, p. 4; Bulletin MC-27B, p. 4; and Bulletin MC-27C, p. 7.
 Col. IV: Percentage breakdown of col. III.
 Col. V: The total for SIC Code 27—\$4,532 million—is broken down according to the percentages shown in col. IV. This total is taken from Department of Commerce, Office of Business Economics, Survey of Current Business, July 1958, p. 16, table 13.
 Col. VI: 20 percent of SIC Code 275; 20 percent of SIC Code 276; 43 percent of SIC Code 278; none of SIC Code 279; and 100 percent of all other items as shown in col. V are considered in col. VI to be "copyright national income originated."

SIC INDUSTRY 3663. PHONOGRAPH RECORDS

Estimated 1954 national income originated, \$64 million

This group includes establishments primarily engaged in manufacturing phonograph records and record blanks.⁷

In the electrical machinery industry (SIC Code 36) which includes the manufacture of phonograph records, the ratio between compensation of employees and national income originated was 81 percent in 1954.⁸

The payroll of the phonograph record industry in 1954 was \$23.3 million.⁹ However, this does not include the compensation of recording artists, composers, lyricists, etc.¹⁰ Trade information indicates that the compensation of this group is about one-third of the other costs of the industry, which reach about \$84.7 million.¹¹ Hence, the artists' compensation is one-third of \$84.7 million or \$28.2 million. Adding \$28.2 million to the nonartists' compensation of \$23.3 million gives \$51.5 million as the total compensation paid out by the industry.

If the ratio of compensation of employees and national income originated in the phonograph record industry is the same as that ratio for the entire electrical machinery industry than the national income originated by the phonograph record industry may be calculated by dividing \$51.5 million by 81 percent, as calculated above. This calculation gives \$63.6 million of national income originated by the phonograph record industry which is rounded to \$64 million for purposes of this study.

⁷ "SIC Manual," vol. I, pt. 1, p. 64.

⁸ Department of Commerce, Bureau of the Census, Census of Business, "Survey of Current Business," July 1958, p. 16.

⁹ Bureau of the Census, "1954 Census of Manufacture," Bulletin MC-36C, p. 3.

¹⁰ *Ibid.*, p. 2.

¹¹ *Ibid.*, p. 6.

METHODOLOGICAL NOTE CONCERNING ESTIMATES OF NATIONAL INCOME
ORIGINATED BY BOOKSTORES, NEWSDEALERS AND NEWSSTANDS, AND
THE MUSIC STORES

For these three types of retail establishments a uniform method of estimation is used. The "payroll for the entire year" is increased by an estimated amount representing the imputed wages of nonpayroll establishments; this estimate is based on the relative volume of sales by payroll and nonpayroll establishments. The increased estimate of "payroll for the entire year" may be called the "total compensation of employees."

For the entire SIC Code "retail trade and automotive services" the total compensation of employees was 66 percent of the national income originated, for the year 1954.¹² On the assumption that the same relationship exists between the total compensation of employees and the national income originated in each of the three retail groups considered here, an estimate of the "total compensation of employees" may be expanded by this factor to obtain an estimate of the national income originated by each retail group.

Finally, such parts of each retail group as are considered to be non-copyright in nature are arbitrarily excluded from the estimate.

SIC INDUSTRY 5942. BOOKSTORES

Estimated 1954 national income originated, \$32 million

For method of estimation, see "methodological note" above.

This group includes bookstores primarily engaged in selling, at retail, new books and magazines. Book clubs and mail-order houses primarily engaged in selling books are also included.¹³

1. Payroll for entire year: \$19 million.¹⁴
2. Imputed wages of nonpayroll establishments: \$2 million.
3. Total compensation of employees: \$21 million.
4. $100/66 \times \$21 \text{ million} = \32 million estimated national income originated by bookstores.

SIC INDUSTRY 5994. NEWSDEALERS AND NEWSSTANDS

Estimated 1954 national income originated, \$36 million

This group includes dealers primarily engaged in selling, at retail, newspapers, magazines, and other periodicals.¹⁵

For method of estimation, see "methodological note" above.

1. Payroll for entire year: \$18 million.¹⁶
2. Imputed wages of nonpayroll establishments: \$6 million.
3. Total compensation of employees: \$24 million.
4. $100/66 \times \$24 \text{ million} = \36 million national income originated by newsdealers and newsstands.

¹² Department of Commerce, Office of Business Economics, "Survey of Current Business," July 1956, p. 16, tables 13 and 14.

¹³ "SIC Manual," vol. II, p. 83.

¹⁴ Bureau of the Census, "1954 Census of Business," Bulletin R-1-1, pp. 1-6.

¹⁵ "SIC Manual," vol. II, p. 84.

¹⁶ Bureau of the Census, "1954 Census of Business," Bulletin R-1-1, pp. 1-6.

SIC INDUSTRY 5995. MUSIC STORES.

Estimated 1954 national income originated, \$22 million

For method of estimation, see methodological note on page 39, supra.

This industry includes stores primarily engaged in selling, at retail, musical instruments, such as pianos, violins, horns, reed instruments, drums, sheet music, and phonograph records.¹⁷

1. Payroll for entire year: \$52 million.¹⁸
2. Imputed wages of nonpayroll establishments: \$5 million.
3. Total compensation of employees: \$57 million.
4. $100/66 \times \$57 \text{ million} = \86 million national income originated by music stores.

5. It is considered that only the sales of phonograph records and music publications by music stores should be included as part of the copyright industries. The 1954 sales of phonograph records by producers is reported to be \$80 million.¹⁹ In order to estimate the retail sales value of phonograph records, the trade considers that the producer usually receives about 48 percent of the list price.²⁰ However, in the hands of retailers a portion of sales of phonograph records is made at less than list prices; and also a portion is sold through outlets other than music stores. Therefore it is arbitrarily estimated that the producers' receipts are 70 percent rather than 48 percent of actual retail sales; and that 65 percent of the total phonograph record sales at retail are handled by retail music stores. With these figures in mind the total dollar volume of retail sales of phonograph records by retail music stores in 1954 was: $\$80 \text{ million} \times 100/70 \times 65 \text{ percent} = \74 million .

It is also estimated that the total retail sales of music publications by retail stores is \$22 million annually.²¹

Thus the total estimated retail sales by retail music stores of phonograph records and music publications is the sum of \$74 million and \$22 million, or \$96 million. The total retail sales by music stores during 1954 are reported to have been \$375 million;²² therefore the retail sales of copyright industry items, amounting to \$96 million is approximately 26 percent of the total.

6. It is estimated in step 4 above that the total national income originated by retail music stores is \$86 million. Twenty-six percent of \$86 million is equal to \$22 million which is the estimated national income originated by retail music stores in their sales of phonograph records and music publications.

SIC INDUSTRY 7232. COMMERCIAL PHOTOGRAPHY

Estimated 1954 national income originated, \$74 million

This industry includes establishments primarily engaged in photography for advertising agencies, publishers, and other industrial users.²³ Little information is available concerning this industry as such, and

¹⁷ "SIC Manual," vol. II, p. 84.

¹⁸ Bureau of the Census, "1954 Census of Business," Bulletin R-1-1, pp. 1-6.

¹⁹ Department of Commerce, Bureau of the Census, Bulletin MC-36C, p. 14.

²⁰ Calculated by Billboard, March 10, 1956.

²¹ Hearings before the House Committee on Post Office and Civil Service, 84th Cong. 1st sess., on H.R. 5139 and H.R. 5142, July 13, 1955, p. 44.

²² Department of Commerce, Bureau of the Census, "1954 Census of Business," Bulletin R-1-1, p. 6.

²³ "SIC Manual," vol. II, p. 108.

it will be necessary to work from the data for Code 72, "Personal Services," and Code 723, "Photographic Studios," including commercial photography.

In 1954, the ratio of total annual compensation to national income originated in SIC Code 72, "Personal Services," is 66 percent.²⁴

In 1954, the total compensation for SIC Code 723, commercial photography, is reported at \$81 million.²⁵ It is estimated that the commercial photographic establishments without payroll paid imputed wages in the amount of \$17 million in the same year based on the relationship between total sales of establishments paying wages and total sales of establishments without payroll.²⁶ Thus, the total wages paid and imputed in the commercial photography industry in 1954 are estimated to be \$98 million.

If national income originated in the commercial photographic industry relates to total employee compensation the same as in SIC Code 72, "Personal Services," then the national income originated by the commercial photographic industry would be: \$98 million \times 100/66 or \$148 million.

However, it is arbitrarily estimated that only one-half of national income originated by the commercial photographic industry may be related to copyright. Therefore, the estimate of \$148 million is reduced to \$74 million as the estimate of the national income originated in 1954 by commercial photography, for purposes of this study.

METHODOLOGICAL NOTE RE ESTIMATES FOR ADVERTISING AND NEWS SYNDICATES

The same general method is applied to theaters and theatrical producers, except motion pictures; and bands, orchestras, and entertainers.

In the case of these industries, it is believed that the wage figure of the Bureau of Employment Security, Department of Labor, is the most appropriate starting point. It appears that the Bureau of the Census, Department of Commerce, in the "1954 Census of Business" did not require reporting news syndicates to include figures for their field establishments. Since news syndicates are largely made up of field offices, it would be expected that the "1954 Census of Business" figures for wages would be relatively small. In fact, the payroll for the entire year is given as \$20.1 million.²⁷ On the other hand, the Bureau of Employment Security does include field offices of news syndicates in its figures; for 1954, the figure for annual wages is \$41.9 million.²⁸

In the advertising industry, a similar but less striking situation exists. The 1954 Census of Manufactures figures for payroll is \$402.1 million.²⁹ The Bureau of Employment Security gives a figure of \$470.2 million for total annual wages in 1954.³⁰

²⁴ Department of Commerce, Office of Business Economics, Survey of Current Business, July 1956, p. 16, tables 13 and 14.

²⁵ Department of Commerce, Bureau of the Census, "1954 Census of Business," Bulletin S-1-1, p. 4.

²⁶ Ibid.

²⁷ Department of Commerce, Bureau of the Census, "1954 Census of Business," Bulletin S-1-1, pp. 1-4.

²⁸ Department of Labor, Bureau of Employment Security, "1954 Average Employment and Total Wages," p. 24.

²⁹ Department of Commerce, Bureau of the Census, "1954 Census of Business," Bulletin S-1-1, pp. 1-4.

³⁰ Department of Labor, Bureau of Employment Security, "1954 Average Employment and Total Wages," p. 24.

Starting with the Bureau of Employment Security figure for wages in each of these industries, the following steps will lead to the estimate of national income originated:

(a) The wage figure will be expanded to represent total compensation.

(b) The ratio between national income originated and total compensation will be calculated, for the entire classification of "Business Services, n.e.c."

(c) On the assumption that the ratio calculated in step (b) above exists in every part of the total classification, that ratio will be applied to the "total compensation" in the individual industry.

SIC GROUP 731. ADVERTISING

Estimated 1954 national income originated, \$716 million

For method of estimation, see methodological note on page 41, supra.

This group includes (a) 7,311 advertising agencies: Establishments primarily engaged in contracting for space in magazines, newspapers, periodicals, for radio time, or other advertising media, and placing advertising for clients on a commission or fee basis; (b) 7,312 outdoor advertising services: Establishments primarily engaged in the preparation and presentation of poster displays and painted and electric spectacular displays on panels, bulletins, and frames, principally outdoors (such establishments may construct, repair, and maintain display boards and may post advertisements); (c) 7,319 miscellaneous advertising: Establishments primarily furnishing advertising services not elsewhere classified, such as handbill distribution, mail advertising services, and the distribution of samples.³¹

(a) Total annual wages are \$470 million.³²

(b) Total compensation is 105 percent of total annual wages, for the entire classification of business services, n.e.c., calculated as follows:

Wages and salaries, business services, n.e.c., total \$2,009 million.

Total compensation, same classification, total \$2,111 million.

Total compensation is 105 percent of wages and salaries; 105 percent of \$470 million is \$494 million, total compensation.

(c) National income originated is 145 percent of total compensation, for the entire classification of business services, n.e.c., calculated as follows:

National income originated by business services, n.e.c., totals \$3,057 million.

Total compensation, same classification, totals \$2,111 million.

National income originated is 145 percent of total compensation.

145 percent of \$494 million is \$716 million.

National income originated by the advertising industry in 1954 is estimated to be \$716 million.

³¹ "SIC Manual," vol. II, pp. 109-10.

³² Department of Labor, Bureau of Employment Security, "1954 Average Employment and Total Wages," p. 24. Figures for total compensation, wages and salaries, and national income originated, used in steps (b) and (c) are taken from Department of Commerce, Office of Business Economics, "Survey of Current Business," July 1956, p. 16.

SIC GROUP 735, NEWS SYNDICATES

Estimated 1954 national income originated, \$64 million

This industry includes central offices and district and local branch offices of news syndicates furnishing news, features, etc., and supplying news reporting services.³³

For method of estimation, see methodological note on page 41, supra.

(a) Total annual wages are \$42 million.³⁴

(b) Ratio of 105 percent is established as in step (b), p. 42, supra. 105 percent of \$42 million is \$44 million, total compensation.

(c) Ratio of 145 percent is established as in step (c), p. 42, supra. 145 percent of \$44 million is \$64 million.

National income originated by the news syndicate industry in 1954 is estimated to be \$64 million.

SIC MAJOR GROUP 77. RADIO BROADCASTING AND TELEVISION

Estimated 1954 national income originated: \$533 million

This major group includes radio and television stations primarily engaged in activities involving the dissemination of radio communications, either aural or visual, intended to be received by the public through receiving sets, and networks primarily engaged in activities involving the transmission of program material by wire or radio to stations serving as network outlets. Radio stations and networks engaged in the sale of time for broadcast purposes, and the furnishing of program material or service are also included.³⁵

This is one of two estimates in this study which have been accepted directly from published sources without change or adjustment. The estimate is \$533 million.³⁶

SIC MAJOR GROUP 78. MOTION PICTURES

Estimated 1954 national income originated, \$917 million

This major group includes establishments producing and distributing motion picture films, exhibiting motion pictures in commercially operated theaters, and furnishing services to the motion picture industry.³⁷

This is one of two estimates which have been accepted directly from published sources without change or adjustment. The estimate is \$917 million.³⁸

³³ "SIC Manual," vol. II, p. 110.

³⁴ Department of Labor, Bureau of Employment Security, "Average Employment and Total Wages 1954," p. 24.

³⁵ "SIC Manual," vol. II, p. 115.

³⁶ "Survey of Current Business," July 1957, p. 16, table 13.

³⁷ "SIC Manual," vol. II, p. 116.

³⁸ "Survey of Current Business," July 1957, p. 16, table 13.

SIC GROUP 792. THEATERS AND THEATRICAL PRODUCERS, EXCEPT MOTION PICTURES

Estimated 1954 national income originated, \$109 million

For method of estimation, see methodological note on page 41, *supra*.

This group includes theaters primarily engaged in presenting legitimate productions, opera companies, concert organizations, road companies, and stock companies; also services connected with theatrical production, such as theatrical and radio employment agencies, booking agencies, scenery and other theatrical equipment and ticket agencies.³⁹

(a) Payroll for the theater industry for the entire year is reported to be \$80.4 million.⁴⁰

For the entire classification of amusement and recreation (except motion pictures), the total compensation was 103 percent of wages and salaries.

One hundred and three percent of \$80.4 million is \$83 million, or total compensation.

(b) For the entire classification of amusements and recreation (except motion pictures), the national income originated was 131 percent of total compensation.

(c) One hundred and thirty-one percent of \$83 million is \$109 million.

National income originated by the theater industry in 1954 is estimated to be \$109 million.

SIC GROUP 795. BANDS, ORCHESTRAS, AND ENTERTAINERS

Estimated 1954 national income originated, \$58 million

For method of estimation, see "Methodological note" on page 41, *supra*.

This group includes dance bands, orchestras, and entertainers for restaurants, night clubs, radio and television programs, and similar organizations operating on a contract or fee basis.⁴¹

(a) Payroll for bands, etc., for the entire year is reported to be \$40 million.⁴²

For the entire classification of amusement and recreation (except motion pictures), the total compensation was 103 percent of wages and salaries; 103 percent of \$40 million is \$41 million.

(b) For the entire classification of amusements and recreation (except motion pictures), the national income originated was 131 percent of total compensation;

(c) One hundred and thirty-one percent of \$41 million is \$58 million.

National income originated by the bands, etc., industry in 1954 is estimated to be \$58 million.

³⁹ "SIC Manual," vol. II, p. 117.

⁴⁰ Department of Commerce, Bureau of the Census, "1954 Census of Business," Bulletin S-1-1, p. 105. Figures for total compensation, wages, and salaries, and national income originated, used in steps (b) and (c), are calculated from Department of Commerce, Office of Business Economics, "Survey of Current Business," July 1956, p. 16.

⁴¹ "SIC Manual," vol. II, p. 118.

⁴² Department of Commerce, Bureau of the Census, "1954 Census of Business," bulletin S-1-1, p. 1-5. Figures for total compensation, wages and salaries, and national income originated used in steps (b) and (c), are calculated from Department of Commerce, Office of Business Economics, "Survey of Current Business," July 1957, p. 16.

SIC INDUSTRY 7999. AMUSEMENT AND RECREATION SERVICES, N.E.C.
(OPERATION OF AUTOMATIC COIN-OPERATED PHONOGRAPHS)

Estimated 1954 national income originated, \$242 million

This industry includes amusement and recreation services not elsewhere classified, such as amusement parks, exhibitions, carnivals, circuses, amusement concessions, shooting galleries, and coin-operated amusement parlors.⁴³ Only a portion of this category is of interest in this study.

None of the official sources of data include figures for the four-digit category 7999. Therefore, it is necessary to fall back upon data from other sources.

The jukebox operating industry

The jukebox (coin-operated phonograph) operating industry is made up of about 8,000 small-to-large operators, both individuals and firms, who own the boxes (frequently with a purchase-money mortgage against them), place them "on location" in restaurants, bars, taverns, etc. (frequently without any written contract with the owner of the "location"); the operators maintain the machines, furnish the records, and split the gross "take" with the "location owner" (on the average, this split is on a 50-50 basis).⁴⁴ No informational reports are released regularly by any national jukebox operators' trade association.

The number of jukeboxes in operation

There seems to be little controversy about the fact that there are about a half-million coin-operated phonographs in operation in the United States. The representative of the Music Operators of America, Inc. (jukebox operators) used the figure "450,000 to 500,000 jukeboxes throughout the United States" in the 1953 hearings on S. 1106.⁴⁵ For purposes of this study, the figure of 475,000 will be used.

Gross "take" per machine.—This figure is subject to considerable controversy. In 1951, the accounting firm of Price, Waterhouse & Co., was retained by the Chicago law firm of Kirkland, Fleming, Green, Martin & Ellis, representing certain manufacturers of coin-operated phonographs and other types of coin-operated machines, to make a survey of the jukebox operating industry. A short, simple questionnaire was sent to every known operator, who was requested to return one copy directly to the accounting firm. The replies from 1,598 operators were used in the final tabulations.⁴⁶

From this survey it was ascertained that the gross "take" per machine in 1950 was "about \$644, of which the owner operator collected \$322."⁴⁷ For the same year, "The Billboard," trade magazine covering the jukebox industry, reported from its annual poll of the industry that the gross weekly "take" per machine was \$18.40 or \$957 per year, of which the operator retained \$478.⁴⁸ For the year 1954, "Billboard" reported a presumably comparable figure of \$20.50 per week per ma-

⁴³ "SIC Manual," vol. II, p. 118. The Bureau of the Census considers that the larger part of the jukebox operators appear in this category, but that some of them may appear in SIC Industry 7399—"Coin-Operated Machine Rental and Repair Services."

⁴⁴ Summarized from the hearings on H.R. 5473 (1952) and S. 1106 (1953), *passim*.

⁴⁵ At p. 93.

⁴⁶ Hearings on H.R. 5473 (1953), pp. 134 ff., *passim*.

⁴⁷ *Ibid.*, p. 136.

⁴⁸ The Billboard, Mar. 17, 1951, p. 87. Based on 820 usable replies from a total of 2,712 questionnaires sent out.

chine, or \$1,046 per year, of which the operator retained one-half, or \$532 per year.⁴⁹

The large variation in the two figures for 1950—\$644 (from nearly 1,600 returns) and \$957 (from 320 returns)—could well indicate that the smaller operators are not adequately covered by the poll taken by "Billboard." In order not to overstate the case, it is arbitrarily determined to use a 1954 figure of \$700 gross per year per machine, for purposes of this study.

The operator's expenses.—On the average, 50 percent of the gross "take" goes to the location owner.⁵⁰ Of the remaining 50 percent, the operator spends about one-fifth for wages, on the average.⁵¹ Other expenses absorb about 35 percent of the operator's gross, leaving 25 percent to cover his profit and interest on his investment.⁵²

The expenses which the operator of a jukebox route must cover are listed by one of them as records, depreciation, labor, parts, donations, repairs, auditing, legal, association dues, unemployment insurance, social security, entertainment, bonuses, rent, automobile expense, advertising, interest on loans, stationery and printing, accounting, telephone, route expenses, insurance (compensation, liability on equipment, automobile liability and property damage, fire and theft), and taxes (gross sales, Federal stamp, occupancy, other Federal, State).⁵³

Together, wages paid out and profit absorb about 45 percent of the total revenue of a jukebox operator, after the location owner is paid. However, in the nature of the jukebox industry, wage and profit payments are difficult to separate. An operator may have employees who do all the work of this "route"; he may have some employees and do some of the work himself, in which case he must get wage payments (imputed wages); he may be a lone operator, in which case he does all the work himself, and his wages and profit become, in effect, a single item. In order that the profits, wages, imputed wages, and interest received on investment, may not, as a group, be overstated, it has been determined to count them as an average of 40 percent of the gross revenues of the operators.

National income originated.—The preceding material concerning the jukebox operating industry makes possible an estimate of the national income originated by it in 1954.

⁴⁹ The Billboard, May 12, 1956. Based on 400 usable returns.

⁵⁰ Hearings, H.R. 5437 (1952), p. 136.

⁵¹ The Billboard, May 12, 1956. For 1955, 18.6 percent was reported from 400 returns to have been spent on salaries and wages. Also, it is stated, "The average is considered to be 20-25 percent."

⁵² Hearings on H.R. 5473 (1952) p. 136. The 1950 Price, Waterhouse survey discussed passim on pp. 134 ff., calculates that an average of 24.4 percent of the operators' gross was retained by him to cover profits, interest on investment, and the operators' wages or salary; of course, the profits are subject to income taxes.

⁵³ Hearings on S. 1106 (1953), p. 142. This list was given by the president of the Automatic Music Operators Association, Inc., of New York City.

Some 475,000 jukeboxes earned a gross of \$700 each in 1954, or a total of \$333 million. Of this, the location owner took \$167 million; of the remainder, the operators paid out or absorbed 40 percent of their revenues, or \$67 million, in wages, imputed wages, profits, and interest on investment. One other item is of significance in national income originated by the jukebox industry namely, interest paid out on loans. About two-thirds of all operators have purchase-money mortgages outstanding against machines they have purchased.⁵⁴ It is estimated that this financing costs the operators a minimum of \$8 million per year. Hence, the items making up national income originated are:

	<i>Millions</i>
Location owners' share.....	\$167
Operators:	
Wages, etc.....	67
Interest.....	8
Total.....	242

MISCELLANEOUS COPYRIGHT INDUSTRIES

Estimated 1954 national income originated, \$125 million

In classifying the copyright industries for purposes of this study, about 5 percent of the copyright registrations could not be closely identified with any industrial classification, but were scattered throughout the economy in such a way as to make estimation impossible on an industrial basis. Also, some of the copyright registrations were on foreign works which impinge more directly on a foreign economy. In addition, parts of the U.S. copyright industries escape statistical detection; that is, phonograph records which are sold through drug-stores, grocery stores, and other nonmusic store retail outlets; or, a portion of the jewelry industry exploits copyright properties even though no direct estimate of the dollar amount is now possible.

In the face of such gaps, it has been decided to make an arbitrary addition to the total size of the copyright industries of approximately 2 percent of the total, or \$125 million. Even though this amount of "national income originated" is larger than that originated by 12 of the classified groups which have been identified and estimated, the fact that the \$125 million so estimated is spread extremely thinly throughout an economy which produced a total national income of nearly \$300 billion in 1954 puts the arbitrary addition in its proper framework of reference.

⁵⁴ The Billboard, May 12, 1956, reports that 68.4 percent of the operators covered by its operator poll were "not free from debt."

APPENDIX B

ESTIMATES OF REVENUES OF CREATORS OF COPYRIGHTABLE MATERIALS
IN INDIVIDUAL COPYRIGHT INDUSTRIES

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GROUP I. REVENUES OF CREATORS FROM COMMERCIAL USERS

(a) *Book publishers (excluding subscription reference books)*

Form of payment.—Book authors usually contract with book publishers for the publication of their works, the publisher taking title to all rights in the work subject to the provisions of the contract. The author usually receives a royalty computed as a percentage of the price at which each book is sold or as a percentage of the total volume of sales.

Amount of payment.—Study of available information indicates that during recent years the average royalty payment to book authors is between 10 and 11 percent of the volumes of sales. In 1954, the total "value of shipments" by book publishers was \$665 million.⁵⁵ Applying a royalty factor of 10.5 percent to this total gives a figure of \$69.8 million paid to authors by book publishers as royalties.

However, about one-fifth of the total sales of books in 1954 was in the form of subscription reference books.⁵⁶ If the publishers of these works paid authors the same percentage (10.5 percent) as all book publishers, then they paid their authors 19.2 percent of \$70 million, or \$13.4 million. Since the payments for creative work by publishers of subscription reference books are estimated elsewhere in this study,⁵⁷ \$13.4 million is subtracted from \$69.8 million, leaving \$56.4 million paid by publishers of other types of books.

⁵⁵ U.S. Census of Business, 1954, Bulletin MC-27A, p. 27A-4.

⁵⁶ The "value of shipments" by all book publishers in 1954 was \$665 million. (U.S. Census of Business, 1954, Bulletin MC-27A, p. 27A-4). Trade information is to the effect that sales of subscription reference books in 1954 were about \$128 million. The latter is 19.2 percent of the former.

⁵⁷ Appendix B, group II-c, p. 53, *infra*.

(b) Phonograph record manufacturers

Form of payment.—Music composers and lyricists usually assign all rights in their works, including the right to claim copyright, to a music publisher, subject to the provisions of the contract of assignment. In general the contract provides that the composer-lyricists are to receive not less than 50 percent of the gross returns from the sales of the work in whatever form.

Payments for the use of copyrighted musical compositions in the production of phonograph records (“mechanical royalties”) are usually made by the record producer to an agent of the music publisher designated for the specific purpose of contracting with phonograph record producers and receiving payments from them under the compulsory license provisions of the Copyright Act. After deducting about 2½ percent for administrative expenses, the publisher’s agent remits to the publisher, who in turn remits about 50 percent of the proceeds to the composer-lyricist.

For an estimate of the amount of performance royalties paid to composer-lyricists, see *infra*, appendix B, group III-a, page 57.

Amount of payment.—In 1954 the gross sales of phonograph record manufacturers totaled \$84.6 million.⁵⁸ From trade information it is indicated that record manufacturers pay on the average of 6½ percent of their total sales for the right to use copyrighted musical material on the records produced by them; about 50 percent of this amount is paid by the music publishers to the composer-lyricists. Hence, the amount paid to the composer-lyricists may be computed as \$84.6 million times 6½ percent times 50 percent equals \$2.7 million.

(c) Theatrical producers

Method of payment.—Royalties for the theatrical use of copyrighted dramatic materials are paid by the producer to the dramatist usually under a standard form of contract negotiated between the organized theatrical producers and the Dramatists League. This contract provides for an author’s royalty of 10 percent of the weekly gross receipts above \$7,000; somewhat lower percentages apply to the weekly gross below that amount.

Amount of payment.—In 1954 the gross receipts of “Theatrical presentations and services” amounted to \$206.9 million.⁵⁹ However, this census classification includes theatrical services in the form of “theatrical and radio employment agencies, booking agencies, scenery and other theatrical equipment and ticket agencies.” In order to exclude these theatrical services the gross receipts for the entire classification have been arbitrarily decreased by 15 percent; this leaves \$175.9 million as the gross receipts of “theatrical presentations.” The trade, in making its estimates of the royalties paid to dramatists, seems to use the figure of 10 percent of gross receipts of the theaters for Broadway and “road” presentations; for summer presentations a factor of 5 percent of gross receipts is usually used.

For the 1956–57 season, *Variety* found that summer presentations grossed about 8 percent of the total receipts of all theater presentations.⁶⁰

⁵⁸ U.S. Census of Business, 1954, Bulletin MC-36-3.2, p. 3.

⁵⁹ U.S. Census of Business, 1954, Bulletin S-1-1, p. 5.

⁶⁰ Computed from figures shown in *Variety*, Sept. 19, 1956, and June 5, 1957.

On the basis of the figures set forth, the payments to dramatists as royalties, by Broadway, road, and summer theatrical presentations would be:

Broadway and road: 10 percent times 92 percent times \$175.9 million, or \$16.2 million.

Summer: 5 percent times 8 percent times \$175.9 million, or \$0.7 million.

Total: \$16.2 million plus \$0.7 million, or \$16.9 million.

(d) *Radio and television broadcasting*

Methods of payment.—Writers of story material and composer-lyricists form the largest creative groups receiving payments for the use of their creative works on both radio and television broadcasts.

Story writers are paid under contract for the writing or adaptation of literary material for broadcast use. These payments may be made on a freelance contractual basis or on an employment basis. Under freelance arrangements the writer may retain part or all of the literary rights in his work; in practice this is rarely done in the broadcasting field unless the writer has an outstanding reputation. Under employment contracts the writer usually waives any claim to royalties and receives only his salary, the employer taking full possession of all rights in the creative work. Broadcasters and networks also make payments to writers of story materials for the use of such materials in broadcasting. Such royalties are usually paid for both the original broadcast and for rebroadcasts; in the latter case the payments are known as "residuals." Residual payments for broadcast use of literary materials are increasingly important largely because the broadcast use of films originally prepared for theatrical exhibition and the rebroadcast of films originally prepared for television use; in both cases local broadcast (syndication) or films frequently follows an earlier network broadcast. In the broadcasting of films royalty payments are usually made to the producer of the film, who in turn may make payments to the writers or adapters of the story material.

As in the case of writers of story material for broadcast use, musical composer-lyricists are paid both for the creation of musical materials for broadcast and for the use of those materials for broadcast. Payments for the creation of musical material may be made on a freelance basis or on an employment basis.

Royalty payments for the broadcast performances of musical materials are usually made only to freelance composer-lyricists; employees-for-hire do not receive them. However, any copyrighted music which is broadcast either live or from recordings or on films is subject to performance royalties which are collected through performing rights' organizations of which ASCAP and BMI are the largest. To the extent that broadcasters and networks may own musical materials, either directly or through corporate subsidiaries, their gross payments to performing rights' organizations for the broadcast performance of those works are reduced by the amounts of performing royalties which they receive from performing rights' organizations.

The amounts of payment.—It is indicated that writers for motion pictures, television, and radio received about \$25 million in 1954.⁶¹ Of this, it is estimated that \$8.6 million went to motion picture writers,⁶² leaving approximately \$15 million as the revenues of writers for television and radio.

No statistical material has been found as a basis for estimating the revenues of composer-lyricists in their work for radio and television broadcasters. Therefore, an amount of \$5 million is arbitrarily estimated for the year 1954.

Therefore, the total payments are estimated to be \$20 million.

For an estimate of the performance royalties received by composer-lyricists from the motion picture industry, see *infra*, appendix B, group III-a, p. 57.

(e) *Bands, orchestras, and other similar performers of musical compositions*

Forms of payment.—These commercial users of copyrighted musical materials make no direct payments to composer-lyricists. The payments are made by restaurants, hotels, theaters (except motion picture theaters), etc., which are licensed by a performing rights' organization or by individual copyright holders to perform the musical compositions under their control.

Amounts of payment.—Performing royalties are paid under contract to performing rights' organizations and will be shown among the payments made by those organizations to composer-lyricists in group III (appendix B, group III-a, p. 57, *infra*).

(f) *Music publishers*

Method of payment.—In general, music publishers hold the copyrights to musical materials in accordance with the provisions of contracts with the composer-lyricists. The contract form approved by the SPA for use by its members provides that not less than 50 percent of all royalties received by the music publisher be paid to the composer-lyricist, excluding payments made to the publisher by performing rights organizations, such as ASCAP.

Amount of payment.—In 1954 the gross receipts of sheet music publishers were \$10.8 million.⁶³ However, this census classification does not include many small publishers and cannot be considered inclusive of the music publishing business. Therefore, the figure for gross receipts has been arbitrarily increased to \$12 million. In 1954, a small sampling of music publishers revealed that 78 percent of their total income consists of royalties.⁶⁴ Applying this percentage to the gross receipts of \$12 million indicates that music publishers received about \$9.4 million from royalties. Of this amount, some \$5.4 million has already been accounted for in the form of "mechanical royalties" (see *supra*, p. 49), leaving \$4 million from other

⁶¹ *Variety*, Dec. 7, 1955; this is a report on the 1955 earnings of members of the Writers Guild of America. From this report it can be gleaned that the total for 1954 was about \$25 million.

⁶² *Variety*, May 16, 1956.

⁶³ U.S. Census of Business, Bulletin MC-27A, p. 13.

⁶⁴ MPPA memorandum submitted to the Department of the Treasury re personal holding company taxes.

royalties, excepting performing royalties (for which, see *infra*, app. B, group III-a, p. 57). Of this \$4 million, it is estimated that 50 percent or \$2 million went to composer-lyricists for the commercial utilization of their copyrighted works.

GROUP II. REVENUES OF CREATORS FROM CREATOR-USERS

(a) *Newspaper publishers*

Methods of payment.—Newspaper publishers make direct payments to their editorial staffs, to columnists, cartoonists, and feature writers. They also make indirect payments to all those employees who assist in creating the newspaper as an entity, in contrast with the copyrightable materials which are obtained separately.

Amount of payment.—It has been estimated that newspaper publishers in 1954 contributed \$1,550 million to the national income.⁶⁵ Since the end result of this entire contribution to the national income is the newspaper as a created copyrightable entity, this figure may be used as a basis for measuring payments for creative effort.

It is not known the extent to which the newspaper publishing industry operates its own printing plants, or carries on other activities which are not a part of the creative process in the copyrightable sense. However, the \$1,550 million contribution to national income has been arbitrarily reduced to \$1,000 million to account for such activities.

(b) *Periodical publishers*

Methods of payment.—Periodical publishers purchase literary materials for at least first serial publication from authors; they usually copyright these materials under their own name without separate copyright notice on the individual contributions. However, any sophisticated author will, through his agent, make every effort to retain all rights in the property other than the periodical publication rights.

The payments made to authors for the periodical publication of their creative works do not include the contribution to the final copyrightable periodical made by all others than the contributing authors. Staff members who produce columns, etc., on an employee-for-hire basis, and editors, in addition to the entire operation which produces the copyrightable periodical, all make a contribution to the final product.

Amount of payment.—It has been estimated that the contribution of the periodical publishers to the national income in 1954 was \$576 million.⁶⁶ The value added by manufacture in the periodical publication industry was \$796 million in 1954. Since "value added by manufacture" is a less refined form of "national income originated" these two figures appear to be in the proper relationship. The figure of \$576 million will be accepted as a basis of measurement for the contribution of periodical publishers to the revenues of creators.

As in the case of newspaper publishers, immediately *supra*; it is not known the extent to which periodical publishers carry on business operations which are not properly a part of the copyrightable creative process, such as printing. The \$576 million figure is arbitrarily reduced to \$450 million to account for such activities.

⁶⁵ *Supra*, pp. 28, 35 ff.

⁶⁶ *Supra*, pp. 28, 35 ff.

(c) Subscription reference book publishers

Methods of payment.—Publishers of encyclopedias and other reference books frequently makes sales on a subscription basis and on a time-payment plan. Hence the figures for sales may not correspond to receipts and the receipts of publishers in this group may not be wholly comparable to the receipts of book publishers who sell primarily through distributors and/or retailers.

Compilers of reference books both pay for the creative work of contributors and create in their own right as editors and compilers. Consequently, the national income originated by such publishers may be used as a basis for estimating the payments made for creative effort.

Amount of payment.—The sales of subscription reference books at the publisher level was 19.2 percent of the total publishers' sales in 1954.⁶⁷

National income originated by all book publishers in 1954 is estimated at \$390 million.⁶⁸ If subscription publishers originated national income to the same extent as they made sales at the publishing level, then 19.2 percent of \$390 million, or about \$75 million, would be the amount of payment for creative effort in that part of the publishing industry. This total includes the \$13.4 million paid to authors by publishers of subscription reference books, as estimated supra in appendix B, group I-a, page 48 but not included in the estimate of payments by book publishers. The \$75 million figure has been arbitrarily reduced by \$10 million to account for possible noncreative activities on the part of subscription reference book publishers.

(d) Miscellaneous publishers (excluding music publishers)

Methods of payments.—This group of industries includes all establishments primarily engaged in miscellaneous publishing activities not elsewhere classified whether or not engaged in printing.

Amount of payment.—For purposes of this study, it is assumed that about 50 percent of the contribution of this group to the national income is from printing and other noncreative activities rather than publishing activities. The total contribution to national income of the group is estimated at \$109 million;⁶⁹ therefore, the amount of payment for creative effort is arbitrarily set at \$50 million.

However, the amount paid to composer-lyricists by the music publishing industry has already been estimated at \$2 million.⁷⁰ This should be deducted from the total figure of \$50 million, leaving \$48 million for the payments to creators by this group of creator-users.

(e) Greeting card publishers

Methods of payment.—Greeting card publishers frequently maintain their own printing plants in addition to designing and promoting the sale of the product.

Amounts of payment.—It is estimated that the contribution of this group to national income was \$95 million.⁷¹ This has been arbitrarily decreased by \$25 million, the reduction representing national income contributed from activities other than publication. Therefore, a

⁶⁷ Supra, note, 56.

⁶⁸ Supra, pp. 28, 35 ff.

⁶⁹ Supra, pp. 28, 35 ff. This estimate includes the music publishing industry.

⁷⁰ See supra, app. B, group I-f.

⁷¹ Supra, pp. 28, 35 ff.

figure of \$70 million will be used as a measure of payment by this industry for creative effort.

(f) *Commercial photographers*

Methods of payment.—It is not known the extent to which commercial photographers conduct their own enterprises as creators of copyrightable material and the extent to which they are employees-for-hire of corporate or other forms of business organizations. However, presumably, almost the entire contribution of commercial photographers to the national income will be reflected in wages paid out or profits made by one or the other form of commercial photography.

Amount of payment.—Therefore, the total contribution of commercial photographers to the national income, or \$74 million,⁷² may be used as a measure of the payments to creators in that industry.

(g) *Advertising*

Methods of payment.—The advertising industry is paid by clients to prepare and place advertising matter in various advertising media, primarily newspapers, magazines, television, and radio. To a large degree the payments made in this process are for creative, artistic, and literary talent employed to produce advertising copy and executive salaries to individuals who supervise the process and maintain relationships with advertising clients. A portion of the advertising copy placed in all media is copyrighted and most of it is copyrightable. Therefore, the contribution which the advertising process makes to the national income may be used as a measure of the revenues for creative effort in this industry.

Amounts of payment.—The contribution of advertising to the national income has been estimated at \$716 million⁷³ and this will be used as a basis for measuring the payments by the advertising industry for creative efforts. The extent to which the industry engages in activities other than those which properly contribute to the creation of copyrightable materials is unknown. However, the \$716 million figure is arbitrarily reduced to \$600 million to account for such activities.

(h) *News syndicates*

Methods of payment.—The news syndicate is made up primarily of a reportorial staff with necessary administrative personnel, using leased wires for communication.

Amounts of payment.—The total contribution of news syndicates to the national income is estimated at \$64 million.⁷⁴ This figure, for purposes of this study, is arbitrarily reduced to \$50 million, the deduction being for national income contributions from other than creative aspects of the industry. Therefore, \$50 million will be used as a measure of payments to creators for this industry.

(i) *Motion picture producers*

Methods of payment.—In motion picture production creative material from both storywriters and composers is used. Motion picture producers employ creative talent both on an employee-for-hire basis and on a freelance basis. However, the business contracts for the writing and adaptation of story material between the Association of Mo-

⁷² Supra, pp. 28, 40.

⁷³ Supra, pp. 28, 42.

⁷⁴ Supra, pp. 28, 43.

tion Picture Producers and the Writers Guild of America provide almost exclusively for employees for hire and it is only in unusual cases that freelance contracts are used. Of course, motion picture producers purchase rights to story material from book publishers who hold copyrights to novels, stories, etc. In most of these cases, a large portion of the purchase price goes to the original author; generally a book publisher retains only the equivalent of an agent's 10 percent fee.

As to the use of music by motion picture producers the usual practice is to employ composer-lyricists on an employee-for-hire basis. The alternative is to purchase motion picture rights to musical compositions; in practice this is done by contracting with the music publisher (copyright owner) through the instrumentality of the Harry Fox office. When purchases of music are made through this latter method the transaction is frequently not an arm's-length transaction because of the fact that music publishers are at times either wholly or partially owned by motion picture producers.

Amount of payment.—The motion picture industry has been estimated to have a "cost of motion picture production" to be "in excess of \$500 million" in 1954.⁷⁵ It is also estimated that 5 percent of the "average production budget" is paid for story costs.⁷⁶ Presumably this includes all payments to writers and adaptors of story material, and payments made to owners of copyrights for story material which producers lease or purchase for motion picture utilization. If these figures were to be used for a basis of estimating the payments to creators, 5 percent of \$500 million would result in an estimate of \$25 million. However, this fails to include any payments to motion picture producers for their activity in creating the final product of the motion picture production industries, i. e., finished, copyrightable, motion pictures.

The national income originated by the motion picture industries is estimated to be \$917 million.⁷⁷ The estimate includes all parts of the motion picture industry; i. e., production, distribution, and exhibition. In order to be helpful in estimating the revenues of the creators of motion pictures, it will be necessary to make an estimate of the national income originated by the production of motion pictures, excluding distribution and exhibition.

The Census of Business for 1954 includes figures for the motion picture industry which attempt to break the industry into its component parts; this attempt is not wholly successful, however, because of the intimately interwoven nature of the industry. For example, the total receipts of motion picture production from customers are shown as \$137 million; the payroll paid out by production is shown as \$230.3 million, or more than 150 percent of the receipts. The appended footnote points out that the figure for total receipts excludes receipts from independent distributors and company-owned distribution offices.⁷⁸

No method has been found to estimate statistically the contribution of motion picture production to the national income. However, consideration of the available figures for payroll of the three major portions of the industry indicate that \$350 million may be as good an arbi-

⁷⁵ "International Motion Picture Almanac, 1955," p. xv.

⁷⁶ *Ibid.*

⁷⁷ *Supra*, pp. 28, 43.

⁷⁸ "Census of Business, 1954," Bulletin 8-2-8, p. 8-2.

trary guess as can be made. In view of the fact that the entire production process is involved in the creation of copyrightable motion pictures, this \$350 million figure will be accepted as the measure of payments for creative efforts in the production of motion pictures in 1954 rather than the earlier suggested figure of \$25 million. At best, the latter figure seems to be minimum for direct payments to story-writers.

(j) "Direct" and "indirect" revenues

The complex nature of the revenues of creators in the creative copyright industries (group II) indicates the desirability of one further breakdown of the figures; namely, the separation of the total revenues of creators into "direct" and "indirect" payments. Estimates of this separation are shown in table IV, which follows. These estimates indicate the extent to which the creative copyright industries make "outpayments" to creators for rights to their creative work; the remainder consists mostly of internal payments (to employees-for-hire in various functions) which are reflected in the creative contribution of the industry. As the nature of the creative copyright industries (group II) would indicate, only a small portion, perhaps 10 to 12 percent, of their total payments for creative work are in the form of "outpayments" to independent creators. The informed judgments on which the table is based await further testing on the basis of detailed analysis of the internal accounting reports of representative firms in each industry; it has not been possible to make this analysis as a part of the present study.

It should be understood that the statistical basis for table IV is very meager. Informed judgment has been substituted for statistical measurement and the possible margins of error are wide.

TABLE IV.—Creative copyright industries—Total revenues of creators from copyrightable materials, separated into direct and indirect payments

[Millions of dollars]

Industry	Creators' revenues		
	Total	Direct payments ¹	Indirect payments
	I	II	III
Newspaper publishers.....	1,000	50	950
Periodical publishers.....	450	100	350
Subscription reference book publishers.....	65	50	15
Miscellaneous publishers.....	48	5	43
Greeting card publishers.....	70	10	60
Commercial photography.....	74	-----	74
Advertising.....	600	50	550
Newspaper syndicates.....	50	-----	50
Motion picture producers.....	350	25	325
Total.....	2,707	290	2,417

¹ Direct payments are those paid out to free-lance creators as royalty payments and other payments for rights to utilize copyright material; indirect payments are all other payments for creative efforts.

Sources:

Col. I: Supra, app. B, group II, secs. (a) to (f), inclusive, pp. 52-54.

Col. II: Those figures are largely informed guesses based on general knowledge of the organization and operation of the industries. As for "Motion picture producers," the figure used is explained supra pp. 54-56.

Col. III: Col. I less col. II.

GROUP III. PAYMENTS FOR THE CREATIVE EFFORT OF INDIVIDUAL CREATORS

(a) *Payments to composer-lyricists by performing rights' organizations*

Form of payment.—Performing rights' organizations control the "small rights" assigned to them by music publishers or individual composer-lyricists and license those rights to persons or organizations wishing to give public performances of the copyrighted works. Payments are made to the organization under a contractual arrangement, and revenues are in turn divided and remitted, in accordance with contractual provisions, to the composer-lyricists and/or music publishers.

ASCAP is an organization of music publishers and individual composer-lyricists. The ASCAP revenues, after expenses, are divided evenly between the two groups and then distributed to firms and individuals under formulas set up by each of the groups. Thus, the composer-lyricists receive, as a group, 50 percent of the net revenue of ASCAP.

As to BMI, the other major performing rights' organization, it contracts with complete freedom with music publishers for the rights to license the public performance of copyrighted musical works, and, in some cases, directly with composer-lyricists. In the absence of any more reliable evidence, it is assumed that 50 percent of the outpayments by BMI were finally received by composer-lyricists.

Amount of payment.—The increasing gross revenues of radio and television have brought commensurate increases in the gross revenues of ASCAP and BMI. Figures for 1954 are not available, but in another study,⁷⁹ estimates of the composer-lyricists' revenues from ASCAP and BMI in 1956 were made as follows:

ASCAP	Million \$9.3
BMI	2.85
Total	12.15

It is known that this form of creators' revenues has increased rapidly during the past few years. Therefore, the figure is reduced arbitrarily to \$10 million for the year 1954.

(b) *Payments to other individual creators*

Forms and amounts of payment.—Creators not classified elsewhere in this study are paid directly by the person or organization for whom they work, either on a free-lance or contractual basis. Portrait painters are characteristic of this group, although sculptors, illustrators, other graphic artists, model makers, etc., are also included. It is intended that this classification shall be a "miscellaneous" classification, concerning which little or nothing is known statistically. Arbitrarily, a gross revenue of \$25 million is assigned to this group.

⁷⁹ "The Economic Aspects of the Compulsory License in the Copyright Law," by William M. Blaisdell, to appear in a subsequent study (No. 6) in this series of Copyright Law Revision Studies.

IV. ADDENDUM: THE COPYRIGHTED COMPONENT OF COPYRIGHTABLE MATERIALS

In the preceding sections of this study, the major subject of consideration has been copyrightable materials: the size of the industries which are closely related to and/or dependent upon the exploitation of copyrightable materials; and the revenues of creators of copyrightable materials. This section will consider the extent to which copyrightable materials are "formally" copyrighted, i.e., a copyright claim is registered in the Copyright Office.

The copyright industries were defined in section I, *supra*, so as to conform as closely as possible to the categories set forth in the copyright law,⁸⁰ and the revenues of creators in those industries were estimated. Both the size and the revenues have been estimated in monetary values; unfortunately, the volume of copyrighted material registered in the Copyright Office is not available in comparable form. Therefore, it will be necessary to abandon statistical estimation in attempting to separate the volume of copyrighted materials from the volume of copyrightable materials, and substitute for it informed judgment concerning the organization and operation of the copyright industries.

The results are shown in table V, page 59, *infra*. Not all of the copyright industries produce copyrightable materials. From table II, page 28, *supra*, the basic producing copyright industries have been selected, and they are shown in table V.

Two possible measures of the value of copyrightable materials have been estimated in the earlier sections of this study: The national income originated by the copyright industries, and the revenues of the creators of copyrightable materials. The former of these two estimates would probably overstate the value of copyrightable materials, and it is possible that the latter would understate it. However, because the revenues of creators seems to represent more closely the actual value of copyrightable materials, and in order that the estimate may not be excessive, it has been decided to accept the latter estimates, which are set forth in column I of table V.

In judging the portion of copyrightable values which has been copyrighted, each industry has been judged separately, even though certain of them appear to have some common characteristics. Book publishing, periodical publishing, and motion picture production copyright practically their entire output. Hence, their output is both copyrightable and copyrighted. Also, radio broadcasting and television produces a relatively small volume of copyrightable material, all of which is probably copyrighted; it also uses a large volume of material copyrighted by others; motion picture producers, freelance authors and dramatists, advertising clients, etc.

At the other extreme, there is a group of industries which copyright only a small portion of their output: Newspaper publishing, greeting card production, and commercial photography. In the case of newspapers, count in the Copyright Office shows that less than 100 newspapers (out of 9,022 published in 1954)⁸¹ are regularly copyrighted, the remainder being rarely copyrighted. It is recognized, of course,

⁸⁰ *Supra*, sec. I-C, p. 28.

⁸¹ Department of Commerce, Bureau of the Census, "1954 Census of Manufactures," Bulletin MC-27A, p. A-16.

that syndicated material published in newspapers is sometimes copyrighted, and the volume of this has been included in newspaper syndicates.

It is believed that only a small portion of greeting card production is copyrighted, and this has been arbitrarily estimated as about one-quarter of the total contribution to the national income. It is judged that even a smaller portion of the total production of commercial photographers is copyrighted.

The remaining industries present varying complex situations. Advertising, for example, probably produces a large volume of copyrightable material, much of which is never copyrighted, but parts of which are copyrighted by clients, by the agencies, or by publications in which the advertising appears.

News syndicates copyright some of their production, and a small part is also copyrighted in newspapers in which it is published. However, it is judged that the larger portion is not copyrighted under either heading.

Miscellaneous publishing produces a considerable volume of copyrightable materials—maps, atlases, music, directories, and other unclassified publishing. It is considered that a large part of this is copyrighted, mostly by the publishers themselves.

From table V it may be concluded that about 40 percent of all copyrightable values are formally registered for copyright. However, by far the largest part of the copyrighted values arise out of three industries—book and periodical publishing and motion picture production.

It should be recognized that the estimates in this addendum are of the most tentative character, based on judgment rather than factual evidence, and that they are subject to a wide margin of error.

TABLE V.—*Copyright industries—Total copyrightable values separated into copyrighted and noncopyrighted components*¹

[Millions of dollars]

Industry	Copyrightable values	Copyrighted values	Noncopyrighted values
	I	II	III
Book publishing	\$135	\$135	0
Periodical publishing	450	450	0
Motion picture production	350	350	0
Radio broadcasting and TV	20	20	0
Newspaper publishing	1,000	75	\$925
Greeting cards	70	20	50
Commercial photography	74	5	69
Advertising	600	60	540
News syndicates	50	20	30
Miscellaneous publishing	50	40	10
Total	2,799	1,175	1,624

¹ This table should be read only in conjunction with the accompanying text.

Sources:

Col. I: Supra, text tables, pp. 33 and 34.

Col. II: See accompanying text. Estimates based on informed judgements concerning the organization and operation of the industries.

Col. III: Col. I less col. II.