Copyright has role in promoting creativity

DR ANDY Ho (“Copyright does not foster creativity”; Monday) argued that financial rewards do not really encourage creativity. In particular, he relied on arguments in law professor Roberta Kwall’s book, The Soul Of Creativity, that the drivers of creativity are more “spiritual” than economic.

While one may concede that authors are not solely motivated by economic incentives to create new works of literature, it would be wrong to think that copyright has no role in promoting creativity today.

During the parliamentary readings of the Intellectual Property (Miscellaneous Amendments) Bill, then Law Minister S. Jayakumar emphasised that the proposed amendments to the Copyright Act would provide more benefits to our local creators and give a greater push for the development of Singapore’s creative industries.

His statements underscore the reality that Singapore’s copyright regime is heavily influenced by economic or utilitarian rationales. This approach bears close similarity to the Copyright Clause of the United States Constitution, which seeks to incentivise creativity and innovation for the progress of science and useful arts.

Thus, the ultimate goal of contemporary copyright law is arguably to benefit society by stimulating creativity through providing economic incentives to create new works. It is a more nuanced framework that grants creators a broad set of exploitation rights to reward them for their sweat and labour – and maybe even their spiritual investment – in the creation of new works that ultimately enrich society, and also ensures a balance between creators, industry and consumers through many fair dealing provisions.

While Dr Ho asserts that “copyright is a holdover from a history that had less to do with a coherent set of ideas about IP (intellectual property) and more to do with business”, it nonetheless has a relevant modern application to ensure that authors are rewarded for their intellectual creations, and that unabashed free-riding does not go unchecked.

American jurist Richard Posner argues that a “work will be created only if the difference between expected revenues and the cost of making copies equals or exceeds the cost of expression”.

Perhaps Michelangelo or Botticelli would still have given the world their masterpieces in the absence of any copyright protection, but it is unlikely that contemporary artists like Andy Warhol and Damien Hirst – well-known for licensed reproductions of their works – would be quite so prolific in the absence of copyright laws that grant them economic exploitation rights.

There lies a coherent set of ideas behind modern copyright laws. Unfortunately, they are premised not on romantic ideals but on economic imperatives.

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