

B. Distinctive Qualities of Magazines

11. Economists divide goods into two types, private and public.⁶ Cultural goods such as films, television programs, music tapes, books and magazines, possess elements of both private and public goods. The content of a cultural good is a public good, but is often delivered to consumers in the form of a private good. An example would be a consumer's purchase of a video. The motion picture on a videocassette is a public good, while the videocassette itself is a private good.

12. In distinction to all other products, the intellectual content of a cultural good is its chief distinguishing characteristic.⁷ The distinguishing traits of a film or a television program are found in the content and not in the physical medium in which the content is captured. The same applies to magazines: what distinguishes one magazine from another is the content, not the material form in which it is embodied.

13. Cultural goods are also distinctive in that they possess attributes of both goods and services. W. Ming Shao explains the point in terms of audiovisual media, but it is equally applicable to print media. Films and videotapes are traded much like other goods, but the reel or tape acts only as the means of delivering the information or entertainment that was originally produced as a service. The same may be said of periodicals.

14. One of the fundamental errors of the U.S. submission is that it treats magazines as if they were ordinary items of merchandise trade and it ignores their distinctive features. For example, unlike ordinary goods, they possess strong public good characteristics as well as attributes of both goods and services.⁸ These distinctive features are key in the examination of the present measures.

6. A pure private good is a good whose production cost is directly related to the number of people who consume the good. Once consumed by one person, this good is no longer available for anyone else to consume. A sandwich is a classic example of a pure private good. In contrast, a pure public good is a good whose consumption by one person leads to no subtraction from any other individual's consumption of that good. National defence is probably the most commonly used example of a public good.

7. This is not always so to an equal degree - in the case of a work of art, or anything where aesthetic qualities are critical, the cultural good is like other goods.

8. See W. Ming Shao's article on the distinctive economic qualities of audiovisual goods and services (*supra* note [5] at 119-121). Although the distinction is established for audiovisual goods and services, the author refers to other cultural goods like books, which are more akin to magazines than audiovisual goods like videotapes. See also S.S. Wildman & S.E. Siwek, *International Trade in Films and Television Programs* (Cambridge, Mass.: Ballinger, 1988) at 1-12 (Exhibit C) and B.M. Owen, J.H. Beebe & W.G. Manning Jr., *Television Economics* (Lexington, Mass.: Lexington, 1974) at 15-16 (Exhibit D).