



Barcelona Culture Forum

# **Charter** for Innovation, Creativity and Access to Knowledge

Citizens' and artists' rights in the digital age

## Summary Version of the Charter 2.0

**A broad coalition from over 20 countries, of citizens, users, consumers, organizations, artists, hackers, members of the free culture movement, economists, lawyers, teachers, students, researchers, scientists, activists, workers, unemployed, entrepreneurs, creators...,**

*invites all citizens to make this Charter theirs, share it and put it into practice.*

*We invite all governments, multinationals and institutions urgently to listen to it, understand it and enforce it.*

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# 1. Introduction

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We are in the midst of a revolution in the way that knowledge and culture are created, accessed and transformed. Citizens, artists and consumers are no longer powerless and isolated in the face of the content production and distribution industries: now individuals across many different spheres collaborate, participate and decide in a direct and democratic way.

Digital technology has bridged the gap, allowing ideas and knowledge to flow. It has done away with many of the geographic and technological barriers to sharing. It has provided new educational tools and stimulated new possibilities for forms of social, economic and political organisation. This revolution is comparable to the far reaching changes brought about as a result of the printing press.

In spite of these transformations, the entertainment industry, most communications service providers, governments and international bodies still base their sources of profits and power on controlling contents, tools and distribution channels, and on managing scarcity. This leads to restrictions on citizens' rights to education, access to information, culture, science and technology; freedom of expression; inviolability of communications and privacy; freedom to share. The protection of private interests should not be allowed to hold back the development of society in general, above the public interest.

Today's institutions, industries, structures or conventions will not survive into the future unless they adapt to these changes. Some, however, will alter and refine their methods in response to the new realities. And we need to take account of this.

## **Political and economic implications of free culture**

Free culture (as in "freedom", not as "for free") opens up the possibility of new models for citizen engagement in the provision of public goods and services. These are based on a 'commons' approach. 'Governing of the commons' refers to negotiated rules and boundaries for managing the collective production and stewardship of and access to, shared resources. Governing of the commons honours participation, inclusion, transparency, equal access, and long-term sustainability. We recognise the commons as a distinctive and desirable form of governing. It is not necessarily linked to the state or other conventional political institutions and demonstrates that civil society today is a potent force.

We recognize that this social economy, in addition to the private market, is an important source of value. The new commons revitalised through the digital technology (amongst other factors) enlarges what constitutes "the economy". At present governments give considerable support to the private market economy; we urge them to give the same extensive support that they give to the private market to the commons. All that the commons needs to prosper is a level playing field.

The current financial crisis has shown the severe limits of some previous models. On the other hand, the philosophy of Free Culture, a legacy of the Free/libre Software movement, is the empirical proof that a new kind of ethics and a new way of doing business are possible. It has already created a new and workable form of production, based on crafts or trades, where the author-producer doesn't lose control of the production process and can be freed from production and distribution intermediaries. This form of production is based on entrepreneurial initiatives in collaboration with others, on exchange according to each person's abilities and opportunities, on the democratisation of knowledge, education and the means of production and on a fair distribution of earnings according to the work carried out.

We declare our concern for the well-being of artists, researchers, authors or other creative producers. Projects and initiatives based on free culture principles use a variety of ways of achieving sustainability. Some of these forms are consolidated. Some are still experimental. The combination of these options is increasingly viable both for independent creators and industry. There must be clear rules that promote public and sharable knowledge, protecting it from any forms of exclusive appropriation by anyone and thus preventing any restrictive monopolies or oligopolies that may emerge from this appropriation.

The digital era holds the historic promise of increasing justice and of being rewarding for all.

This is the objective of the following proposals:

## 2. Legal demands

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We have identified flaws that exist in national regulations and international treaties concerning the dissemination of culture and knowledge, both in private, contractual relations and in international public policy. These weaknesses of existing regulations and treaties are detrimental to the public interest and to a modern, democratic cultural industry.

The public interest is served by supporting and ensuring ongoing creation of intellectual works, because of its significant social value, and by ensuring that all citizens have unfettered access to such works for a wide range of uses.

### A. Rights in the digital context:

- The RIGHT TO QUOTE for educational or scientific reasons, or for purely informational, creative purposes or any other purpose.
- PRIVATE COPYING: Reproductions, in any form, of works already published, when the reproduction is done for sharing or private use (either individual or collective), and when no economic profit is obtained from it, don't need the copyright holder's authorisation or "remuneration".
- FAIR USE: the right to access and use copyrighted works without the rights holders permission for the purpose of education, teaching, scientific research, information, satirical or incidental to the principal creative objective.

### B. Stimulating Creativity and Innovation

We declare our concern for the wellbeing of artists and authors:

- In creative labors where royalties cannot be guaranteed in a reasonable quantity and time, fees should be guaranteed.
- Differences in the bargaining power always produce unfair outcomes, also between creative individuals and commercial entities and must be counter-balanced.
- The abolition of all unjust "digital levies" which indiscriminately sanction everybody in the name of "compensation for artists" and which attempt to penalize activities that are in no way criminal. The concept of "obligatory compensation" should not exist.
- Authors/creators shall be able to always revoke the mandate of ROYALTIES MANAGEMENT AND COLLECTING SOCIETIES.
- Royalties collection societies must only manage works that have been registered with it, which are in no case the whole creative production.
- No collecting society should be allowed to create monopoly or to prevent artists or authors from using free licenses.

- Private collecting societies shouldn't be managing non-attributable levies. Those amounts should be managed by public institutions and should be used to promote the creativity of the whole society.
- Patents that monopolize any kind of software, business method, logic, mathematic algorithm, genetic information or being, industrial procedures, game rules, mental acts, or any other human intellectual development, should be illegal and must not be ever granted.

### **C. Knowledge Commons and the Public Domain**

- The expansion of the public domain and contraction of the copyright term (less than 50 years).
- The results of works and developments funded by public money should always be licensed under a free/libre access, use and distribution, in a sharable and free/libre format.
- When the state or state-supported institutions possess copies of works whose copyright has expired, they must make them accessible to the public, so that they can be copied, shared and used in any form.

### **D. Defending access to Technological Infrastructures and Net neutrality**

- Citizens are entitled to an Internet connection that enables them to send and receive content of their choice, use services and run applications of their choice, connect hardware and use software of their choice that do not harm the network.
- Citizens are entitled to an Internet connection that is free of any kind of discrimination – whether blocking, limiting or prioritizing – with regard to type of application, service or content or based on sender or receiver address.
- No Internet limitation or filtering should be done.

### **3. Guidelines for Education and Access to Knowledge**

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Imitation is the starting point for learning. Copying and sharing knowledge are thus founding principles of any educational process. The culture of sharing embraces these principles rather than discouraging them. We understand education as a social process that involves a wide range of educational actors, technologies, entities and activities, not just the official and formal ones. Our vision of education is one which fosters a culture of knowledge sharing and educational innovation that is efficient and sustainable.

#### **Free/Libre and Open Source Software**

Free/libre and Open Source Software allows people to study and learn concepts instead of black boxes, enables transparency of information processing, assures competition and innovation, provides independence from corporate interests and increases citizens' autonomy. Free/libre and Open Source Software therefore should be used, promoted and implemented in educational institutions and other places where educational processes take place.

#### **Sharable Educational Resources**

Educational resources are a basic educational tool; their sharable publication in the public domain or under a free/libre license, facilitates access, stimulates improvement and participation and provides for cultural diversity, while maximising reuse and efficiency. Text books, course materials and other kinds of learning materials should be published therefore, as Sharable Educational Resources that assure rights to use, copy, reuse, adapt, translate and redistribute.

#### **Sharable Access**

Sharable Access publications assure access to the results of scientific research, for scientists as well as the general public; they boost the possibilities for learning and they enable diverse research disciplines to discover and use each other's results. Universities and research centres therefore should embrace the Sharable Access model for the publication of research results. Applications for patents on the results of publicly funded research should be discouraged. Patents held by public institutions should be irrevocably released under royalty-free terms and free of any other restriction.

#### **Open Standards**

The use of open standards and open formats is essential to ensure technical interoperability, enable seamless access to digital information, provide a level playing field for competing sellers and ensure the availability of knowledge and social memory now and in the future.

## 4. Structural requirements for a knowledge society

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### **Privacy:**

Citizens have the right to:

- be allowed to browse the Internet and access contents anonymously.
- decide at any time to move, modify or remove their user data from any online service.
- not get their communication intercepted and to encrypt their communications.

### **Rights to networks: Freedom to use, create and connect:**

- Civil society and public administrations must have the right to provide and implement network services, including those offered for free and without conditions to the citizens.

### **Infrastructure and market regulation:**

- **Neutrality:** Net neutrality must be guaranteed.
- **Symmetry:** Internet access providers must grant symmetrical connections or a reasonable download/upload ratio. There should be an access to broadband (ITU-i113) as a universal service right for all citizens.
- **Diversity:** monopolies in telecommunications infrastructures and service provision should be prevented. Citizens have the right to have access to more than one provider (public or private) and that the offer of this service is not subject to the acquisition of other products or services. In any case, all citizens has the right to have at their disposal the tecnology systems, products and infrastructures that allow free/libre access to Internet ('digital dividend').

### **Public Administration:**

- Public sector, publicly funded projects and those that commit citizens by law or in a manner affecting their fundamental rights, should always use free/libre software and open standards.
- When a free/libre solution or open standards does not exist, the government or the corresponding public institution should promote the development of the software needed.
- Governments must guarantee a non-exclusive free/libre Internet access to every citizen independently of its place of residence.

### **The evaluation and purchase of software in public administration:**

- Public purchases of software must evaluate the total cost of using it, including the costs of stopping using it and migrating to an alternative software.
- Public accounting must clearly separate between the costs of software licenses, maintenance, support and service, and the cost of hardware.

## 5. Transparency

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There is a need for transparency in enforcement and lobbying activities, including information on who are the authorities in charge of the law's application, the obligatory procedures, in order to avoid the breach of any fundamental rights. The digital tools themselves have the potential to bring about more transparency and openness to politics. For all these reasons, the provision of digital infrastructure and tools must be based on transparent procedures.

## 6. Members of the FCForum

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1. eXgae
2. Networked Politics
3. Mayo Fuster Morell
4. P2P Foundation
5. Consumers International
6. Electronic Frontier Foundation (EFF)
7. David Bollier
8. Knowledge Ecology International / James Love
9. La Quadrature du Net
10. ScambioEtico
11. Pirat Partiet / Amelia Andersdotter
12. European Digital Rights (EDRI)
13. Participatory Culture Foundation
14. Michel Bauwens
15. Creative Commons España/ Ignasi Labastida
16. Transnational Institute/Hilary Wainwright
17. Students for Free Culture
18. Jose Murilo / Department of Digital Culture (Government of Brazil)
19. Nagarjuna G.
20. John Howkins
21. Alberto Barrionuevo/FFII.org.es
22. ALQUA
23. Isaac Hacksimov
24. Dyne.org Foundation/Denis Jaromil Roio
25. The Open Standards Alliance/Stefan Marsiske
26. David Evan Harris
27. David Hammerstein
28. Joan Subirats
29. Fundación Karisma
30. Carlos Sanchez Almeida
31. Free Knowledge Institute (FKI)
32. FLOSS Manuals
33. David Maeztu
34. Josep Jover
35. Patricia Vila

- 36.Javier Candeira
- 37.IT-Political Association
- 38.ScriptumLibre
- 39.Felix Stalder
- 40.Franziska Heine
- 41.Dmytri Kleiner
- 42.Anne Ostergaard
- 43.Jack J. Marxer
- 44.Alan Toner
- 45.Roberto Santos
- 46.Asociación de Internautas / Javier Cuchí
- 47.Epidemia / Pablo Ortellado
- 48.Kim Tucker
- 49.La Casa Invisible
- 50.Margarita Padilla
- 51.Guifi
- 52.Mario Pena
- 53.Traficantes de Sueños
- 54.Platoniq
- 55.Yproductions
- 56.Jamie King
- 57.Vittorio Bertola
- 58.Marco Berlinguer
- 59.Universidad Nómada
- 60.ASACC / Carmen Zapata
- 61.REEM
- 62.Toni Verger
- 63.SELF
- 64.Perogrullo/José Cervera
- 65.Maria Claudia de Azevedo Borges
- 66.Exit
- 67.CSDVA
- 68.La impròpia
- 69.David Moreno
- 70.Josean Llorente
- 71.Conservas

## 7. Public endorsements

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1. On the Commons
2. Jimmy Wales
3. Boaventura de Sousa Santos
4. Foundation for a Free Information Infrastructure International (FFII)
5. The Centre for Internet & Society
6. Gnowledge lab
7. Free Software Foundation India
8. Wikileaks
9. Ronaldo Lemos
10. Markus Beckedahl/netzpolitik.org
11. Javier de la Cueva
12. Peter Suber / Berkman Fellow, Harvard University
13. David Weinberger / Harvard Berkman Center for Internet & Society
14. Laboratory for Global Villages / Franz Nahrada
15. Iuridicum Remedium
16. Icelandic Digital Freedoms Society
17. Openelibrary / Marco Buttarini
18. Telematics Freedom Foundation
19. Rule of Law Institute
20. Water Forum / Tommaso Fattori
21. Miss Despoinas Hackspace / Nancy Mauro-Flude
22. Gabriella Coleman
23. Frans Nauta, Open Source Software & Open Standards Ambassador of the Dutch Ministry of Economical Affairs
24. Daniel Mietchen
25. Observatori per a la CiberSocietat
26. Matusa Barros
27. Jorge Buzaglo
28. Podem.cat / Enric Duran
29. Santiago Eraso Beloki
30. Gleducar

To be continued...

*If you want to endorse this Charter, spread it in Internet .*

## 8. Link to complete version of the Charter

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The complete version (with references, sources and a glossary) is available at [http://fcforum.net/charter\\_extended](http://fcforum.net/charter_extended)

## 9. Licenses

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