



Barcelona Culture Forum

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

Citizens' and artists' rights in the digital age

## Summary Version of the Charter 2.0.1

***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 social, economic and political organisation. This revolution is comparable to the far-reaching changes brought about by the invention of the printing press.

In spite of these transformations, the entertainment industry, most communications service providers, governments and international bodies still base the sources of their profits and power on controlling tools and distribution channels for what they call “content”. They present this approach as the only possible model for how a digital society can deal with culture. 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.

In deciding copyright policy, the general interest shall take priority over the specific private interests.

Today’s institutions, industries, structures and conventions will not survive into the future unless they adapt to the changes that result from digital era. 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 (“free” 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, based on a ‘commons’ approach. ‘Governance of the commons’ refers to negotiated rules and boundaries for managing the collective production and stewardship of, and access to, shared resources. Governance of the commons honours participation, inclusion, transparency, equal access, and long-term sustainability. We recognise the commons as a distinctive and desirable form of governance that 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 is an important source of value, alongside the private market. The new commons, revitalised through digital technology (among other factors), enlarges the sphere of what constitutes “the economy”. Governments currently give considerable support to the private market economy; we urge them to extend to the commons the same comprehensive support that they give to the private market. A level playing field is all that the commons needs in order to prosper.

The current financial crisis has highlighted the severe limits of some of the existing models. On the other hand, the philosophy of Free Culture, a legacy of the Free/Libre Software movement, is empirical proof that a new kind of ethics and a new way of doing business are possible. It has already created a new, workable form of production based on crafts or trades, in which the author-producer does not lose control of the production process and can be free of the need for production and distribution intermediaries. This form of production is based on collaborative entrepreneurial initiatives, 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 and other creative producers. Projects and initiatives based on free culture principles use a variety of approaches to achieve sustainability. Some of these forms are well established, others are still experimental. The combination of these different options is increasingly viable for both independent creators and industry. There must be clear rules that promote public, sharable knowledge, protecting it from any form of exclusive appropriation by individuals or companies and thus preventing the possibility of restrictive monopolies or oligopolies emerging from this appropriation.

The digital era holds the historic promise of strengthening justice and being rewarding for everybody.

This is the objective behind the following proposals:

## 2. Legal Demands

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We have detected flaws 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 in 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 their 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, for purely informational or creative purposes or any purpose whatsoever.
- PRIVATE COPYING: the reproduction, in any form, of works that have already been published, when the reproduction is for the purpose of sharing or private use (either individual or collective), and when no economic/commercial profit is obtained from it, should not require authorisation from the copyright holder and does not generate “remuneration”. It should not be considered illegal to have a private copy of a work.
- FAIR USE: the right to access and use copyrighted works without the authorisation of the copyright holder, for educational, pedagogic, scientific research, information, parody or satirical purposes or for any purpose incidental to the principal creative objective.

### B. Stimulating Creativity and Innovation

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

- In creative labour where it is not possible to guarantee a reasonable amount and payment term, fees should be guaranteed.
- Differences in bargaining power always produce unfair outcomes, as in negotiations between creative individuals and commercial entities, and they must be counter-balanced.
- 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 should be abolished.
- The concept of “compulsory” should not exist.
- Authors/creators should always be able to revoke the mandate of Royalties Management and Collecting Societies.
- Royalties collection societies are private entities, so they should be allowed only to manage the accounts of their members, who are in no case the entire creative community.
- No collecting society should be allowed to create a monopoly or to prevent

artists or authors from using free licenses.

- Private collecting societies should not manage non-attributable levies. The amounts arising from such levies should be managed by public institutions and should be used to promote the creativity of society overall.
- Patents that monopolize any kind of software, business method, logic, mathematic algorithm, genetic information, industrial procedures, game rules, mental activity, or any other human intellectual development, should be illegal and must not be granted under any circumstances.

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

- The public domain should be expanded and the copyright term shortened (to less than 50 years).
- The results of works and developments funded by public money should always be licensed under free/libre right to 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, as long as they do not harm the network. ISPs must fully document the protocols they use.
- Citizens are entitled to an Internet connection that is free from any kind of discrimination – whether blocking, limiting or prioritizing – with regard to the type of application, service or content, or based on the sender or receiver address.
- No limitation or filtering should be applied to the Internet.

### **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 two of the 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, beyond simply the official, formal ones. Our vision of education is one which fosters an efficient and sustainable culture of knowledge sharing and educational innovation.

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

Free/Libre and Open Source Software allows people to study and learn concepts instead of being based on an input-only approach, it 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 therefore be published as Sharable Educational Resources that ensure the right to use, copy, reuse, adapt, translate and redistribute.

#### **Sharable Access**

Sharable Access publications guarantee access to the results of scientific research, for scientists as well as the general public; they boost the potential for learning and they make it possible for different research disciplines to discover and use each other's results. Universities and research centres should therefore embrace the Sharable Access model for the publication of research results. Patent applications for 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:

- browse the Internet and access contents anonymously.
- decide at any time to move, modify or remove their user data from any online service.
- not have 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 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. Access to broadband (ITU-i113) should be available as a universal service right for all citizens.
- **Diversity:** Monopolies in telecommunications infrastructures and service provision should not be allowed. Citizens have the right to access more than one provider (public or private), and this service should not be subject to the acquisition of other products or services. In any case, all citizens have the right to access technology systems, products and infrastructures that allow free/libre access to Internet ('digital dividend').

### **Public Administration:**

- Public sector and publicly funded projects, and those that citizens must use 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 standard does not exist, the government or the corresponding public institution should promote the development of the software needed.
- Governments must guarantee non-exclusive free/libre Internet access to every citizen regardless of his or her place of residence.

### **The Evaluation and Purchase of Software in Public Administration:**

- When dealing with government or publically funded purchases of software, the total cost of using the software in question must be evaluated, including the costs of ceasing to use it and migrating to an alternative software.
- Public accounting must make a clear distinction 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 of enforcement and lobbying activities, including details of the authorities in charge of the application of the law, and mandatory procedures, in order to avoid the breach of any fundamental rights. Digital tools in themselves have the potential to bring about more transparency and openness in the sphere of politics. For all these reasons, the provision of digital infrastructure and tools must be based on transparent procedures.

We would be glad to endorse a “three-strikes system” for violators of the public right to be informed, if one is designed.

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

## 7. Public Endorsements

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1. Richard Stallman
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 Bechedahl/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. Openlibrary / 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
31. Nagla Rizk
32. Fribit

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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