

How-To for Sustainable Creativity in the Digital Era



<http://fcforum.net>

Version 1.0

Contents

Part 1: State of the Art

- A. [From whom, to whom?](#)
- B. [Questions that need to be answered](#)
- C. [Who generates culture?](#)
- D. [Fields of Observation \(non exhaustive\) and their current situation](#)
 1. [Music](#)
 2. [Filmmaking](#)
 3. [Writing and Publishing](#)
 4. [Fashion](#)
 5. [Software: Threats to the sustainability of free software](#)
- E. [Free and open infrastructure for online collaboration](#)

Part 2: New Sources of Sustainability for Creativity

- A. [New Sources of funding and sustainability for Creativity](#)
 1. [Basic principles](#)
 2. [Economic models](#)

Part 3: General Framework – The situation as it stands

1. [Current context](#)
2. [Competition vs Cooperation](#)

Annex:

1. [Bibliography](#)
2. [Licenses](#)
3. [Endorsements](#)

PART 1: STATE OF THE ART

A. From whom, to whom?

The FCForum brings together key organisations and active voices in the spheres of free/libre culture and knowledge. It responds to the need for an international arena in which to put together and coordinate a global framework for action.

Standing up to the powerful lobbies of the copyright industries, the FCForum is a space for creating tools and strengthening civil society with regards to the creation and distribution of art, culture and knowledge in the digital age.

After an initial phase in which free/libre culture emerged, grew and expanded, there is now an urgent need to re-think the existing economic structures for the production, financing and funding of culture. Many of the old models no longer work. They have become unsustainable and detrimental to civil society. We need to define and promote innovative strategies that make cultural practices sustainable and empower the wealth of society in general.

This document aims to contribute to this task, and is specifically intended to be useful for the following:

- To provide arguments for policy reformers: as a tool with which to lobby policy makers, institutions and governmental agencies, in order to influence the legislative changes that are currently in process.
- To offer individuals, as active subjects, tools for dealing with the paradigm changes that are taking place in the fields of knowledge and creative and cultural production.
- To create a network of affinity and global collaboration, based on a common interest in defending free/libre culture.

B. Questions that need to be answered

At the first FcForum in 2009, we analysed a series of reforms that would have to be applied to existing legislation in order to ensure that the digital age is beneficial to artists, citizens and entrepreneurs. Our conclusions and proposals are published in the [Charter for Innovation, Creativity and Access to Knowledge](#).

For this 2010 document, we shift the focus to the **economic aspects of culture and knowledge production**, exploring the way in which benefits – in the sense of economic profit, but also social and cognitive benefits – can be generated in such a way that they lead to a sustainable culture.

This debate has to be approached through three core questions:

- How should culture and knowledge be produced in the digital age?
- How can the time and resources required to create them be made available, in the current context?
- How should value that is generated collectively be accessed and managed?

We believe that these three aspects, which the conservative copyright industry lobbies choose to present as indivisible, can and need to be dealt with separately as well. The production of **culture should not be simply seen as synonymous with generating profit**, and the new sustainable economic models should not be detrimental to the free

circulation of knowledge. The real challenge lies in grasping that there is such a thing as culture without money, even though it is possible to make money from culture. The safeguarding of the productive force that makes culture possible should not be used as an argument for economic blackmail, but rather it should be recognised as the fundamental linchpin of our rights.

It is our responsibility, as civil society, to oppose practices that plunder this common heritage and block its future development. We need to defend and expand the sphere in which human creativity and knowledge can prosper freely and sustainably.

This document sets out our proposals and our demands.

C. Who generates culture?

In order to develop, the human capacity for creativity requires access to existing culture, knowledge and information.

Creativity is a networked activity.

The democratization of the means of production defines our contemporary social reality.

There is no going back.

Everyone can contribute on different scales to the production of culture, values and wealth.

The scale ranges from very basic (for instance listening, being an agent for the reproduction of knowledge) to very complex creative contributions.

The resources and time required for creative acts also vary in scale: some require only a few minutes of attention, others a lifetime of dedication; some need basic infrastructures, others require complex machinery; some can be achieved alone, others only in large groups.

We want to promote ways of liberating this time and these resources in the current context of “cognitive capitalism,” so that this distributed potential can be deployed in a sustainable way.

D. Fields of observation (non exhaustive) and their current situation

[Note: our conclusions for each section are based on the specific characteristics of the corresponding field, but they apply across all the fields. This document does not aim to provide an exhaustive account of each sector, only their dominant aspects.]

1. Music

The music publishing industry has been one of the slowest and most deficient in understanding the changes that have transformed the production paradigm as a consequence of the introduction of the networked environment. Record companies are refusing to let go of a past model that has collapsed before their eyes, and to accept the need for change. As a result of the autonomy that musicians and groups have gained through new recording technologies and the ease of distribution through P2P networks, social networks and the Web 2.0, many of the traditional roles of record companies have changed dramatically.

A constellation of micro-music production companies has cropped up over the last few years, defying the monopoly and the authority of the large record companies. Many music groups have decided to self-publish and self-produce, often choosing free licenses for their albums, thus favouring the viral spread of their works. These groups have learned that their music becomes valuable only when it moves through the network and has the opportunity to be appreciated by many people.

As is widely recognised, in the old model, most of the benefits from royalty management go to record companies, and only a tiny part reaches musicians (see figure 1).

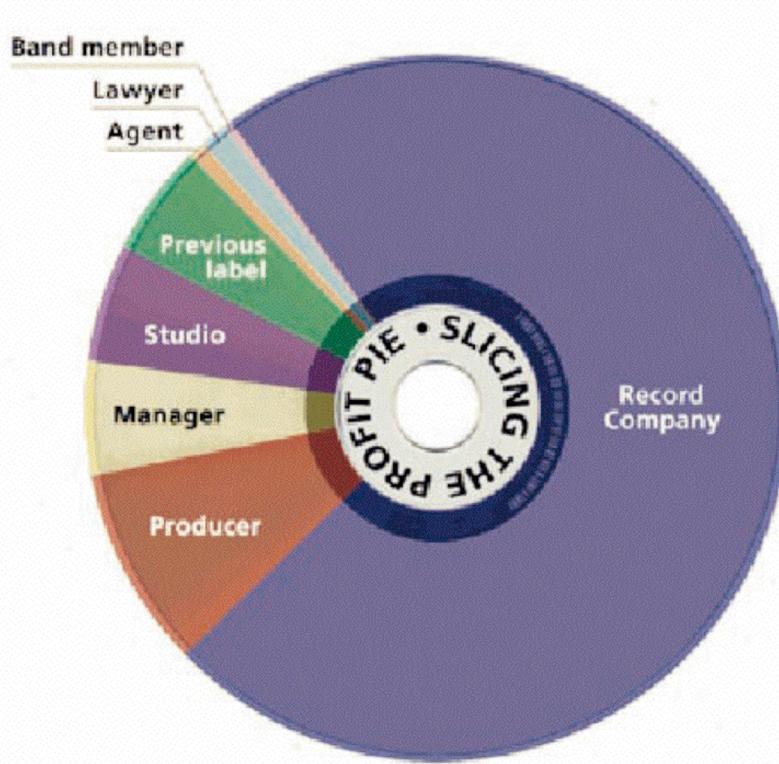
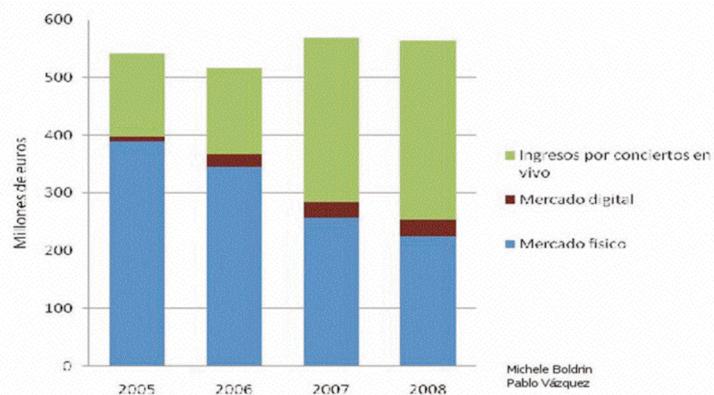


Figure 1: Distribution of royalties, information sourced from kn.com.au

Royalties management and collecting societies have aligned with the big record companies and tried to criminalise users who exercise their rights to private copying. Meanwhile, lobbies are pressuring politicians to criminalize Internet users who download music and share it with their peers. This has led many governments to favour the interests of large corporations, to the detriment of entrepreneurial initiatives that are trying to construct viable economic alternatives. This in turn has favoured the continuation of an outdated business model that is of very little benefit to musicians or the general public.

Musicians are trying to stay a step ahead of the record companies, maintaining control of concerts and live performances as a new source of income. Just as digital technology is increasing the visibility and impact of many groups, there has also been an increase in the number of festivals, concert venues and other types of performance spaces, and as a result, revenue from concerts has grown exponentially during recent years (see figures 2 – 3) This has allowed many musicians and groups to carry out more extensive tours, resulting in a level of sustainability that the large record companies had previously denied them.

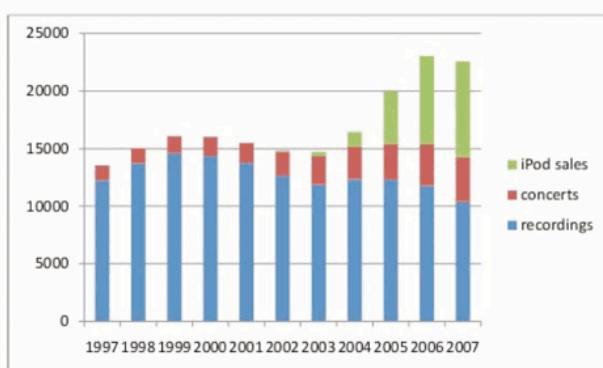
This has led to increased sales of more affordable music online.



Fuente: Promusicae e Informe anual 2009 de la industria de contenidos digitales del Ministerio de Industria, Turismo y Comercio.

Figure 2: Annual report of the digital content industry (2009, Ministry of Commerce, Industry and Tourism)

U.S. MUSIC INDUSTRY SALES TRENDS



Sources: Recording Industry Association of America, "2007 Year-End Shipment Statistics" (www.riaa.com), Pollstar (www.pollstar.com), Apple, Inc. Annual Reports (www.apple.com), accessed 18 March 2008.

Figure 3

In some cases, record companies have adapted to this scenario by taking on the role of music promoters, managing the overall image and content generated by groups. In many other cases, small promoters have sprung up to coordinate and publicise groups that are no longer dependent on record companies because they can now access the media much more easily, quickly and affordably.

P2P networks are an essential part of the music circuit, a tool that encourages both the creation and consumption of music. New music industry models understand P2P networks as a constituent part of the new paradigm, not as an enemy to fight against. As tends to happen, changes are not taking place along a linear or predictable path. As illustrated in figure 4, Vuze users (Vuze is a Bit Torrent client used to transfer files via the BitTorrent protocol) pay for more movie tickets, DVDs and rentals than average internet users. This shows that rather than having a negative impact on the industry, culture consumption through file-sharing networks functions as a point of entry for a type of consumption that is more closely tuned into consumer interests.

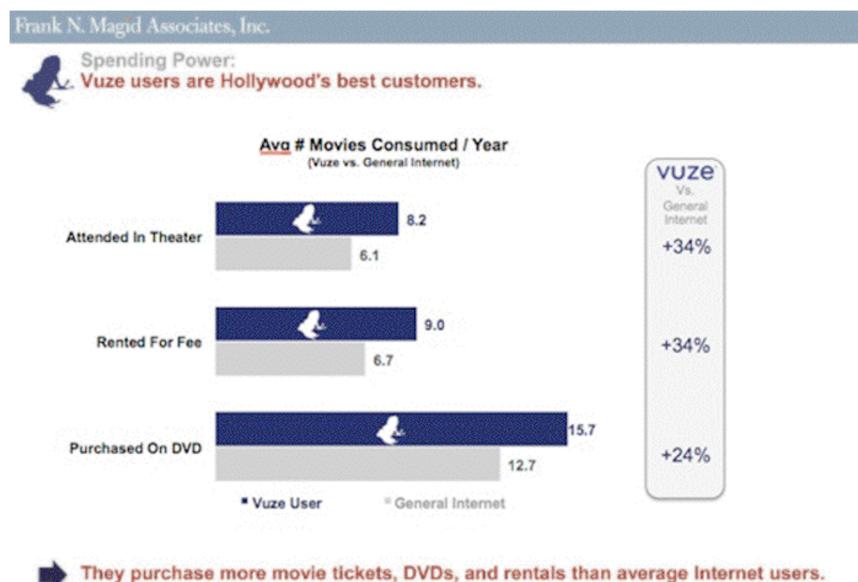


Figure 4

[Technobrega](#) in Brazil, and [Sonideros](#) in Mexico are two highly developed examples of self-management and sustainability. Technobrega offers musicians who self-produce their albums access to informal sales and distribution networks that allow them to reach their audiences. The promoters then work with them to organise concerts that are attended by large audiences, contributing to the economic sustainability of the groups. In the case of Sonideros, musicians use networks to promote their work and develop close-knit communities by encouraging economies based on trust and reciprocity. These new models are pushing the traditional industry into crisis, along with its desire to monopolise mediation in commercial processes linked to music.

[Further evidence in [the bibliography: graphics](#) and [documents](#)]

2. Film-making

[Based on key notes by [Alan Toner](#) on the European Film Industry]

Film is one of the most heavily funded cultural industries at the European level. In spite of receiving large injections of public funding, the film industry vehemently defends its integration in a market regulated through copyright. Given this paradoxical duality (it survives thanks to public monies but clings to private purposes), and the fact that its lobbies constantly claim that film production is going through a difficult time while it turns its back on or even criminalise other forms of producing and diffusing culture, we want to include a series of data that can shed some light on this anomalous situation.

This data is also further proof of how little truth lies behind the oft-repeated claim that file sharing reduces box office profits.

How are first copies of films currently financed?

- Over the past five years, the number of feature films produced in the EU increased from 911 (2005) to 1168 (2009).
- In 2009, the European box office grew to a record level of 6.27 billion euros – a gross increase of 12% on the previous year. Ticket sales (attendance) increased 6% annually, to around 985 million. Total attendance figures were higher in 2001/2 and 2004, at just over a billion.
- Only one of the top twenty grossing films in European cinemas last year was nominally European, “Harry Potter and the Half Blood Prince”, a UK production with incoming US investment.
- Europeans are flocking to the cinema, but not to see European films, which comprised 26.7% of the market in 2009.
- In the 2002 – 2005 period, the total direct and indirect funding (in the 27 EU states) amounted to 6,853 Billion Euros (Copenhagen Think Tank, 2009).
- French funding schemes run by the CNC constituted the largest part of this, at around 2.4 billion. With an aggregate production of around 800 feature films during the period, this amounts to a rough average of just under 3 million euros per film.
- The second largest component by state corresponds to the UK, which runs a modest program of direct funding and a large tax incentive system, amounting to 468 million in the 2002-3 fiscal year, and 220 million in 2003-4. This scheme has made the UK the main destination for incoming US investment.
- Public funding plays an ever growing role in films made for small markets. For example, Austrian documentary films receive in excess of 75% of their funds from public sources (Vienna Report, ThinkTank 2008).

But the policy basis for the subsidy system is murky. Film and television are not treated like a “regular” commodity because culture is supposedly an exception to the virtues of ‘free trade.’ The need to promote diversity and ensure space for expressions of cultural specificity trumps the dictates of the market.

Nevertheless, audiovisual production is also considered to be an industrial sector that needs to be nurtured in order to generate investment and employment. Competition to attract US studio dollars is played out in offers of tax shelters and subsidies. Hollywood studios have been substantial beneficiaries (through co-productions and the establishment of EU subsidiaries) of what is ostensibly a policy to promote cultural diversity.

This outcome is defended on the grounds that the studios provide the employment, expertise, and technological innovation required for the industry to exist at all – a sine qua non, it is argued, for the creation of further productions.

Problems:

1. None of the existing systems allow public control over the use of public funds, which end up being privatised because the resulting commercial exploitation takes place in a context of copyright which strictly regulates time, access and costs.
2. Film distributors tend to form hegemonic monopolies and impose their criteria on cinemas, which are forced to acquire blockbuster movies in order to access the rest of the distributor's catalogue. These distributors have become one of the most important obstacles to film diversity and to the introduction of non-copyrighted films in the commercial market.
3. This entire system assumes that producers should see themselves as 'rights managers'. Most Copyright legislation implicitly considers the producer to be the only interlocutor, automatically excluding the authors and other agents from the possibility of achieving a return on their work.
4. A very large number of films are becoming de-facto inaccessible after their very short commercial lifespan, or the even shorter and less accessible special-interest festival circuit. A tremendous cultural resource is lost for the people who paid for it in the first place.

3. Writing and publishing

[Based on key notes by [Traficantes de Sueños](#) and contributions from [Pepe Cervera](#), [Claudio Ruiz](#), [Meena Hwang](#) and [Johanna Blakley](#)]

Many different categories come under the umbrella of publishing, including academic publishing, blogs, commercial fiction and non-fiction, etc.

As such, the strategies proposed address these different activities and their economic dimensions separately.

The economic aspect of print publishing (fiction/non-fiction) is dominated by the means of distribution, which generally takes up 50% to 55% of the revenue (minus 5-25% of the physical production of the book).

In the future, we are likely to see the growth of a dual business model based on two totally different types of reading habits. Although the two models are not incompatible, works will tend to fall into one or the other according to different market niches. As we are already seeing, some forms, like encyclopedias and other technical manuals, will tend to be published digitally, while the traditional print form will continue to dominate for a long time to come in children's literature and graphic novels, for example.

Print editions are likely to continue to follow traditional production and distribution models, although technically this does not make them incompatible with wider circulation through the Internet. The costs of producing physical copies will continue to justify the existence of bookshops, distributors and traditional points of sale, which will be enhanced by online retail or other means of direct distribution.

We are likely to see a boom in innovation in the distribution side of digital content. The key point will be alternative distribution channels based on online distribution, social networks, communities, niche economies and open collaboration.

One possible strategy would be to increase sales of physical books based on the model of premium copies (signed, with additional illustrations, especially designed, etc.) which can mitigate the possible loss of sales resulting from the availability of free digital versions of the books. Along the same lines, there is the possibility of revenue from ticket sales to specifically created events where readers can meet the authors and interact with them in a community spirit. Seminars and similar types of face-to-face meetings can help to create awareness of authors and set up strong links with communities of readers.

Publishers or authors can also develop other strategies for forging relationships with the community of potential readers that they cater to, creating something like a social market. This opens up possibilities of crowd-funding and content-subscription models, promoting an economic model based on services rather than book sales, a model that entails establishing ties and listening to a specific community that shares common interests.

One final strategy worth considering is based on the provision of publishing-related services, such as releasing core content whilst selling enhanced digital copies or physical copies, print on demand, and other services with the potential to generate revenue. These services could either be sold directly or be based on community conscious models, subscriptions, or user networks.

In the case of blog publishing, the principal source of revenue would be generated through advertising and subscriptions.

We need better content management systems that favour the discoverability of authors and promote content distribution. This means developing metadata standards, open archives, and common platforms from which individual publishers can operate, archive and share their content. The interoperability of archives and the need to create better search indexes for free content have to be addressed, with a view to boosting visibility and access to new audiences for free publishers.

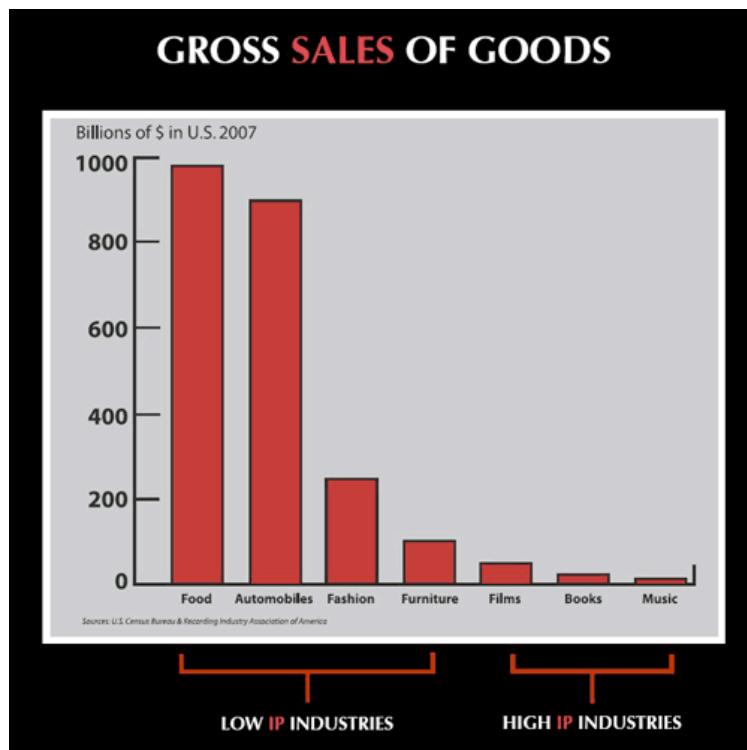
A very important aspect is university and scientific journals financed by public funding. Once again, we insist on the importance of preventing the privatisation of this knowledge that has been produced through public contributions.

Public institutions should promote and contribute to building a community of readers/writers.

4. Fashion

[From key notes by [Johanna Blakley](#) and [Zoe Romano](#)]

The fashion sector has been relatively disconnected from the free culture movement and from collaborative and collective production systems. One reason for this is that the fashion industry has very little copyright protection, and designers rarely qualify for patent protection. As a result, organisations like Creative Commons have paid little attention to this industry, which manages to be highly profitable despite the fact that designers do not own the three-dimensional garment designs that they create. Fashion designers operate in a de facto « terra nullius ».



Source: [Johanna Blakley](#)

Fashion is one of the few creative industries in which authors rarely try to protect their works by imposing their intellectual property rights. Only the name of a brand or its logo can be trademarked. There have been some attempts to extend copyright to fashion garments, but they have failed and the lack of measures has actually made the industry stronger. Blakley suggests that fashion's lack of copyright protection directly contributes to its financial success, partly because the cycle of innovation and production isn't hindered by the requirement for time-consuming, costly copyright clearance on every design. In fact, the copying that takes place in the fashion industry actually contributes to the establishment of trends, which drive seasonal sales cycles.

While the fashion industry does not use copyright, this does not mean that the sector has no intellectual property or related issues. One problem is that competition functions mainly at the level of brand value, and this places [a lot of power in the hands of those who can afford](#) to invest in marketing and brand strategies, shifting the concept of innovation from products to narratives and logistics. This leads to the situations of monopoly and concentration of power that the sector is currently facing.



Zoe Romano of Serpica Naro Crew sourced from <http://www.digicult.it>

These big investments in communication and brand strategies do not only generate consumers but also create an exploitable workforce:

- At the manufacturing level, factories compete to offer the lowest price to secure a contract with big brands (factories moving from Thailand to Bangladesh, for example – or the creation of [EP Zones](#))
- At the immaterial labour level, [large numbers of creative workers](#) in Europe and the US work for very low salaries (and even more commonly as unpaid interns) at every level of the immaterial supply chain as a structural workforce (not for production peaks), in companies that are part of international fashion conglomerates (LVHM.. etc).
- People work for free so that they can include the big brand name in their CV.

Finally, it is also important to note that the oligarchy of international conglomerates ultimately hinders any substantial innovations to the current system of creation and production in fashion. As projects such as Serpica Naro have shown, there are revolutionary possibilities for creating a more sustainable fashion system, but this is hindered by powerful gatekeepers who stand to lose as a result of any changes. Real innovation may reach the industry through independent players/authors who enter the field of fashion creation or the fashion market from different perspectives, such as IT, open source technology, distributed production and collaborative processes.

PERIODO 1991 -> 2001



**LAUREATI
DESIGN E MODA**



fonte "Il valore della moda" a cura di Cietta, Richetti

Zoe Romano of Serpica Naro Crew sourced from <http://www.digicult.it/>

5. Free Software:

Threats to the sustainability of free software

[Based on key notes by [Mako B. Hill](#)]

The success of free software is proof that the new models can in fact be sustainable. Many large projects have been running for decades, and have now become part of the core infrastructure of the Internet. The story of the success of Free Software is so well known that there is no need to repeat it here. Even so, there are still many challenges that need to be addressed.

A need for diverse economic models

Although a series of economic models have developed around free software – most of them based on the provision of services and support – there is still cause for concern. These models represent a tiny fraction of the computing and software industry. Many of the most successful projects are based on dual licensing models, which are essentially built around the sale of proprietary versions of software.

Some possible solutions are suggested in the “Economic Models” section of this document.

Systematic barriers to collaboration

There are technical as well as non-technical barriers to collaboration, and there are signs that fragmentation is increasing in ways that threaten the ability of free software to continue to develop collaboratively.

License proliferation is one major obstacle that creates legal barriers to cooperation, while language proliferation is an example of a technical barrier to cooperation. The solution need not necessarily involve converging into a single license or a single language, and other options can be explored. Nevertheless, free software communities need to weigh up the benefits that can stem from synergy in these areas, and we should work towards increasing compatibility in areas in which we choose to work separately. Standardization is an important tool in this regard.

Software patents

Free software is incompatible with software patenting. Users of free software are subject to the threat of patent holders who extract income from the value created by free software communities and firms, and increase the cost of using free software. Software patents also pose a threat to free software developers – especially those working in firms – who can be sued for creating, distributing, or making money from free software. These situations can be resolved by abolishing software patents.

Expanding knowledge about and use of Free Software

Despite the success of Free Software the people who understand the core ideas around “free” are generally those who are actively involved from the inside. It has now become necessary to reach well beyond these communities. We need to support free software education campaigns and advocacy more broadly and, in particular, promote:

- Legislative mandates for the use of free software and free standards. A number of governments have mandated the use of free formats or free tools. These top-down methods provide a way for the State to serve the public interest through its choice of software, and gradually create a base from which free software can expand.
- Education using free software tools. We should support the role of free software in education. This is important both in the sense that it helps learners take control of the environment with which they engage, and that it contributes to creating a large base of users familiar with free software tools. In particular, when firms donate hardware to classrooms, universities or public administration, this gift should not be linked to the use of proprietary operating systems and/or software.

On the other hand, there are many useful free software applications that already exist but have not become widely known to the general public. Systematic matching of proprietary and open source applications (for example Photoshop versus Gimp) should be promoted, in order to make inter-operability easier.

Free and open standards

Free standards can be implemented by non-free tools, but proprietary standards pose a huge barrier. The promotion of free standards will help to create an environment in which free software can flourish.

DRM and legislation against downloading content subject to copyright

Free Software is threatened by private DRM (Digital Restriction Management) and restrictive government legislation that lays the foundations for disconnecting people from the Internet. One key argument in favour of the enforcement of IPR on the Web is that the source code should be concealed in order to prevent hackers from easily reading (and changing) it. This is why the Free Software community has been so active in the fight against the maximalist copyright movement on the Net.

E. Free and open infrastructure for open online collaboration

In order for open online collaboration (also known as common-base peer production, peer production, and online creation communities, among others) to take place, it is necessary to have some basic infrastructure that allows the aggregation of the collective action online. Individuals (hereinafter “creators”) use this infrastructure to interact and collaboratively create content and works. The infrastructure is made up of a number of components: servers, domain names, online platforms (with communication and collaborative authoring tools), f2f meeting, among others.

There are several models of infrastructure provision, which offer different conditions for creators. Over the last few years, we have seen an increase in enclosures of infrastructure provision by companies, which privately exploit the common value produced by online collaboration communities.

To oppose this trend, we have drafted a series of guiding principles for the provision of free and open infrastructure, based on a public domain approach that aims to promote freedom, transparency and participation in the creation process, and, most importantly, allows creators to control the means of production. It also favours public access to the output (content and works), so that civil society is positioned as a commons provider.

What are the guiding principles for free and open infrastructure?

In this context, “infrastructure” and “free and open” are seen as relative concepts, a continuum rather than absolutes. Infrastructure refers to the essentials required to support the main activity that is the goal of the specific open online collaboration (for example, software is infrastructure, except perhaps to software developers). As such, infrastructure may mean different things to different projects. Meanwhile, “free and open” should be considered as a “tending towards” within the spectrum of possible freedoms and opennesses, which varies in its position according to the context. At this stage, we consider that the ability to create free and open infrastructure depends on four factors: legal, technical, governance and economic.

Principles of a free and open infrastructure

1. Legal issues: platforms must be based on free or open source software; the services offered must be under an AfferoGPL license; there must be open access (public domain or copyleft licensing) to the materials produced; and there must be data protection and a privacy policy to protect creators.
2. Technical base and architecture that support interaction: this refers to a series of requirements linked to the technical basis of the infrastructure.
 1. The source code must be available, so that users can see, study and improve the technical details of the infrastructure.
 2. Interoperability (legal and technical), that is, data must be able to move around different parts of the platform. Interoperability refers not only to personal data portability, but also to project database migration.
 3. Distributed network infrastructure, that is, infrastructure based on the shared use of physical resources, with each element simultaneously belonging to different parts. Any part should be able to initiate actions from any point within the network, on the basis of equality of communication capacities, or network neutrality. This favors a

weakening of central control – or removes the need for it — and ensures that nodes interact as equals with no mediation. In other words, all creators should be able to interact with all other creators without mandatory mediation by some third party. The architecture must be separated into as many levels as possible. Additionally, interaction between the levels must be defined by standards, and should preferably be accessible through programmable interfaces. Where technical solutions for distributed infrastructure are not available and centralized infrastructure is used, governance arrangements should be evaluated on the basis of principles of transparency and accountability to the community of creators. Centralisation must only be used in the service of technical functioning of the network, not for control or profit.

3. Governance issues: Governance refers to transparency, openness and the participation of the community of creators in decision-making processes in relation to infrastructure. This includes ensuring that the community of creators has the opportunity to participate in the decision-making process when there is any major change to the infrastructure. Guaranteeing a transparent and open governance of infrastructure involves several issues:

1. Non-discriminatory participation. This means that everyone can contribute, as long as he or she adheres to the community rules and respects creators' freedom to use the infrastructure (with the only limits being not harming the infrastructure itself, and using it for the projects it is intended for, as defined by the community).
2. Infrastructure should be transparent for the content or works (nothing should be filtered, added or eliminated) and the management of the infrastructure should not interfere with the content or works (except if they damage the infrastructure). Infrastructure management should not become a source of censorship or prevent free speech or the freedom of association and cooperation.
3. The community of creators should have the opportunity to define the policies and rules that govern its own interaction with the development of content and works on the platform.
4. The body that manages the infrastructure should report to, and act with transparency towards, the community of creators. In addition, there should be direct or representational channels through which to communicate the community's mandates to the body that manages the infrastructure, and for liaison in general, so that the community can intervene in the decision-making process regarding to the infrastructure. Governance of the infrastructure recognizes the importance of the creators who use it. This does not necessarily imply that the whole community should be actively involved on a regular basis with the body that manages the provision of the infrastructure, or in decision-making linked to infrastructure maintenance. But it does mean that infrastructure governance should follow the priorities of the community and allow the creators some degree of monitoring, dissent and participation in the decision making process, if they wish.
5. Community empowerment through forkability. This means guaranteeing the right to leave, and the right to relocate the activity, if the community,

- or a part of it, chooses to develop the project in a different direction or decides on other infrastructure options.
- 6. A free and open infrastructure is preferably owned by the users who create and produce value, rather than by an external service provider.

- 4. Economic issues: The economic value generated through open collaboration using the infrastructure should be acknowledged, and should be used to benefit the activities of the community, and the community of creators as a whole. The revenue should not stop collaboration or the peer-to-peer dynamics of the community, or should interfere with them as little as possible.

The sustainability of online infrastructure. General conditions and strategic directions:

The sustainability of infrastructure (of any type) has always been a challenging and difficult issue, and it is further complicated by the fact that infrastructure for open online collaboration is not cheap, particularly when it is to be used on a mass scale. It requires resources (hardware, bandwidth, energy) and people to maintain/develop it.

Not all of these resources can (nor should) be obtained strictly on a donation / volunteer basis. Therefore, there needs to be a mechanism that can support some paid/professional work and other costs involved at the infrastructure level, without negatively affecting the collaboration that takes place on this infrastructure.

The most appropriate approach would seem to involve thinking in terms of hybrid solutions and community ecosystems for the sustainability of open online collaboration.

It is also worth emphasising that there is not ONE model; there is no single sustainable model solution for all open collaboration projects (and their typology of costs), in all their stages. Instead, sustainability might be seen as a non-static and therefore somewhat fluid issue. Sustainable solutions for projects change and evolve depending on the typology of costs of each activity and the scale of infrastructure and community. As technology develops and communities grow and evolve, the infrastructure must evolve with them.

When designing a sustainability plan, it is necessary to take the context into account. This can mean considering the effects and comparing the business models of media corporations with the business models of a free and open online infrastructure. For example, projects based on “free as in beer” are becoming tricky, as Google now provides everything from source code repos to email for free.

Another relevant aspect to consider is that (independently of the type of provider), there is a tendency towards concentration on the Internet. Only few projects are able to become very big and attain sustainability (such as [Wikipedia](#)), while the majority remain small. This is linked to the fact that networks increase in value when more people use them. In this regard, it might be useful to think in terms of the ecosystems of projects, or federations of activities, in order to benefit from the network effects.

Apart from collective sustainability in terms of the infrastructure itself, individual creators participating in open collaboration are also very important. There is the need to address how they can earn income from the value they create. When considering the sustainability of open collaborations, individual sources of sustainability also have

to be considered. One possible approach that can be explored in terms of sustainability for individual creators is self-organised production (along the lines of social economy and cooperatives). In this sense, focusing on free and open infrastructure and its governance and sustainability is a way of addressing the issues of access and control over the means of production, and of power (decision-making) over the value generated by creators by using it.

*[*More references in the bibliography*](#)

PART 2: NEW SOURCES OF SUSTAINABILITY FOR CREATIVITY

A. New Sources of funding and sustainability for Creativity

We are now seeing a radical shift towards new ways of supporting culture, fuelled by the growth of free/libre culture. Copyright is clearly not the ideal model, at least not any more. There has never been only one model.

In a context in which the boundary between the producers and consumers of culture is increasingly blurred and the two roles are often interchangeable or highly complementary, processes of collective production and collaborative creativity entail deep changes in the systems that have “produced” culture so far.

Meanwhile, public and private institutions and philanthropic agencies have tended to shy away from funding non-hierarchically produced culture, because they are unfamiliar and different to traditional standardised forms of production. The lobbies of traditional cultural industries try to slow down their decline by lobbying in favour of the criminalisation of new forms of production and distribution of culture, thus hindering their development. At the same time, public investment in culture is suffering severe cuts, jeopardizing the continuity of many cultural initiatives and projects.

Here are some ideas towards making culture sustainable, and, where necessary, professionalize its practice.

1. Basic principles

1. The restructuring of the cultural industries is not only necessary but inevitable. It needs to be done right now, as a way of moving away from the obstacles that stand in the way of the normal development of entrepreneurial and cultural potential in the digital age.
2. In today's social and economic environment, the diffusion of culture as such, or as a commercial product, is based on sharing. We are in a period when culture is flourishing. More culture is produced and shared now than ever before, and more benefits are generated by culture than ever before.
3. The profit margins that production companies and distributors defend are based on the artificial production of scarcity and on the inflation of their brand image. The public is prepared to pay for cultural products or goods as long as they deem the price to be reasonable and only if paying does not restrict their freedom.
4. Culture needs to recognise the skills and contributions of all of its agents, but it shouldn't depend on extensive copyright in order to be 'productive', to find sustainable models and investors. In this sense, many sectors have proven that copyright ownership is not crucial to ensure that creators receive returns.
5. The digital context benefits creators as well as entrepreneurs and civil society. The role of middle-men has to be revised in light of the idea of collaboration. Appropriate models make it easier for users, consumers and producers to access each other. Fame and audiences can be attained without the need to be 'discovered' by a middleman.
6. New models must promote innovation and show ways to build a non-monopoly based economy of culture whilst allowing culture to grow.
7. The Internet is an essential tool for favouring contact between creators and their audiences, which is one of the reasons why it is necessary to safeguard it, and ensure everyone has non-discriminatory access to it.

8. Governments that don't promote the new forms of creation and diffusion of culture and instead politically or economically favour the interests of large corporations, are generating lost profits for society and destroying its cultural diversity. This leads to an increase in global costs for small enterprises and for public administrations. The former because many techniques and cultural resources will be beyond their reach at a time of intense competition. The latter because the price of public services will be needlessly expensive.
9. In the digital age, the number of people who consider themselves artists has risen dramatically. In the digital era, the barriers to entering media production and the costs of media production have often decreased dramatically. The investment required is often lower, so the risks are lower.

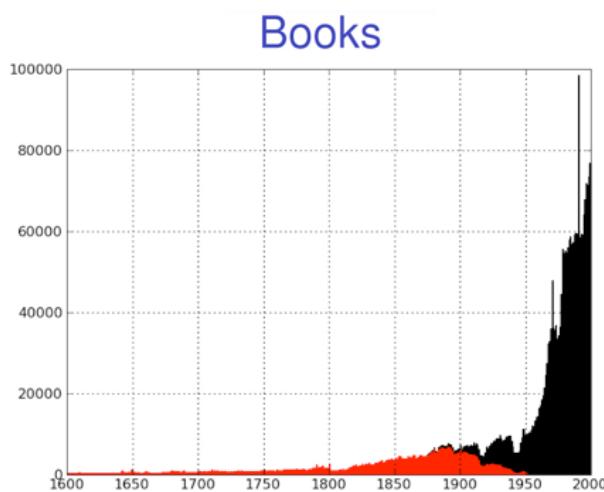


Figure: UK Published Books and Public Domain (Red) (CUL)
Source: OKFN

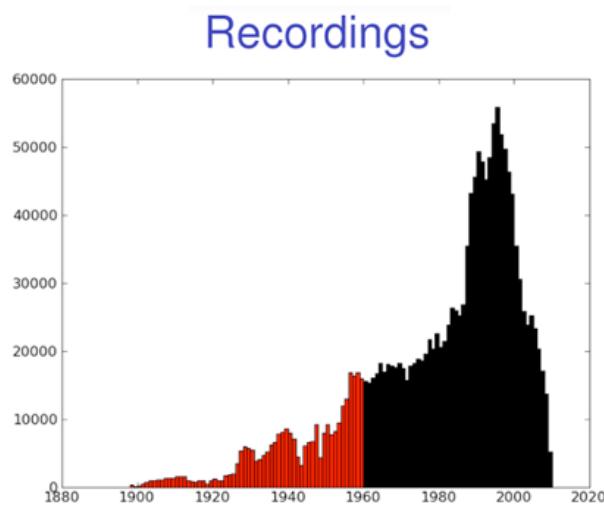


Figure: UK Recordings (BLSA). Red shows PD.
Source: OKFN

10. These economic models for culture resonate with the Free Software movement in which peer production and distribution are not incompatible with market strategies and commercial distribution. It does not impose or devise any limits on who should exploit, distribute or benefit from free-cultural objects.

2. Economic models

[These proposed models are not the definitive solution to all the problems. They are suggestions that can be adapted to different contexts]

The following list is not ordered according to our priorities or what we consider to work better or worse. It starts with the models that are most similar to those traditionally accepted by the cultural industries, and moves towards those that are closer to the idea of sharing that pertains to our age.

This list has been devised in this order so that the models can be adopted in a gradual and ‘non-traumatic’ way 😊.

1. Pay for what you get

This first model is more like a series of suggested guidelines for industries that need to restructure in order to come into line with the digital age:

Make it easy and accessible; make it affordable (no more bits of plastic for 25 euros); don’t make it compulsory, static and criminalised, ([see EFF position](#)).

Also, to ensure that artists don’t starve, [pay fair wages](#) when contracting professional work (professional = anybody who sells their skills in exchange for money) Pay for what you get: if you have asked a third party for a script or a soundtrack, pay for it.

This category would also include live performances, lectures and presentations, and live acts.

2. Pay for a Plus

Including “physical” copies 😊

Sharing copies is useful for building up a reputation, which then becomes the base for charging for ‘services’ that cannot be copied, such as live performances, works-for-hire, attractive gadgets or the free-to-play model, a strategy that invites people to play for free and purchase virtual goods.

This model also includes the strategy of by-products: when sales exceed the costs of the initial product, it can even be sustainable to offer by-products for free. Merchandizing is the classic example for this.

3. Advertising

Advertising can play a role but it is also a potential trap. It risks compromising principles such as selling freedom of choice. Networked forms of advertisement are also invasive of privacy, and can constitute a new form of surveillance. Furthermore, producers are surreptitiously driven to try to attract advertisers instead of the public or users. In any case, the advertising model is only valid under some conditions: big communities, but not new projects, for example.

Several research studies have looked into how ads can be used without a major cost to community principles. Between bombarding users with ads and the total absence of ads, there are intermediate options:

- Selective ads, such as accepting advertisements only by other members of the commons or from projects with affinities.
- [Giving users control](#) over the consumption of ads, such as offering the option of accepting ads as an alternative to donating, that is, accepting ads instead of sending money (e.g. proposal in Wikimedia). Or displaying ads so that only casual readers see them, while registered users access ad-free content (i.e. [Wikihow](#)).
- [Allowing users to ask for ads](#) related to the article they are reading. The idea is that advertisements can add value, because readers are interested in buying something related to content they are reading

4. Private investment

Business as usual 😐.

Venture investment, shares, private sponsorship and/or business infrastructure investment pools, among others.

- Support the common pool in order to attain a greater market share for complementary goods or services: supporting businesses which offer complementary services or products.
- Selective investor support: when investors have an interest in the existence of certain components of an open collaboration set, they invest in it, and some of that investment may be transferred to support other components, but not to the whole set of components that have a right to exist.

5. Freemium

Freemium is a business model that works by offering basic services, or a basic downloadable digital product, for free, while charging a premium for advanced or special features. This model has helped to start many online enterprises and seeks to find an equilibrium between providing access for users, and the need to pay for some services or content. [Magnatune](#), for example, allows users to listen to individual songs on their site but by paying a fixed amount users can access the whole of the project's archive. Premium accounts work because the client has freely chosen to purchase a service, when he or she values the content or services on offer. The digital journalism industry is also headed in this direction.

The fundamental difference between Magnatune and other seemingly similar projects such as Spotify, for example, is that in order to exploit its content Spotify is still dependent on contractual forms linked to the mediation of the cultural industries, while Magnatune uses content licensed under CC or free

licenses, allowing a reduction of intermediaries and a greater circulation, thus increasing profits for the authors and the platform itself.

6. Contributions

It is not unusual for projects to enable users to contribute or donate sums of money in order to help sustain a given project or enterprise. This model cannot fund all cultural activities or commodities, but it can help to establish a close bond between communities of producers and all those agents who benefit from them. This is the case of Wikipedia. The more involved and respected users feel, the better this system works.

In this context, as [Jaromil](#) point out, it is also important to rethink currency systems and the ways in which we value and valorize cultural contents. We must design systems that allow us to create free transactions in parallel currencies

7. Crowdfunding

By enabling individual citizens and public or private business to contribute to a cultural enterprise with whatever amount of money they choose, these platforms have allowed society to become an important player and to have a voice in the production of specific cultural projects. There are currently several models of crowdfunding that should be explored and taken into account in order to understand the potential of these models.

1. Direct crowdfunding

Projects create their own platforms in order to received donations. [Riot cinema](#) is a clear example of this practice, as they are currently working on financing a film which will be funded by individual agents who access the project through their website. Their task is to promote the film and engage people in its production in exchange for goodies, private views and credit lines. This creates a direct link between audience and producers, who shape the film together.

2. Crowdfunding of non-existing project platforms

Another modality enables cultural agents to describe a project that they want to develop, providing possible sponsors with information about the needs, potential and possible outcomes of such a project. Once this information is provided, an open call is made for funding by direct donations which are visible and public. The artists or producers reach agreements with their stakeholders in order to return future benefits, merchandising, visibility etc. once the project has been accomplished. In this way, the money goes directly to the artists and no intermediaries are needed. [Kickstarter](#) constitutes a perfect example of this model of co-funding. It has enabled the production of many projects ranging from films to records, books, etc. This system helps to mitigate market risks by exposing projects to investors and analyzing social reactions to these initiatives before they are put in place: if they don't get a good reception this will suggest that the investment is too risky.

3. Crowdfunding existing projects

Another system of co-funding enables people to contribute to the life of existing cultural projects, websites, blogs, etc. [Flattr](#) is a great example of this, as it consists of a donation system based on voting whatever sites you consider worth funding. The user opens an account in which he or she determines an amount of money which will be distributed among all the projects that they have clicked on. In this way, software developers, bloggers, writers, composers, etc. can carry on producing their work whilst visitors to their sites can donate part of their funds to them.

4. Pre-production agreements

Another interesting direction to contemplate is that of pre-funded projects. [Goteo](#) is a good example of this model. In this case, the platform allows institutions and private agents to produce cultural projects which will later be exhibited or displayed in said institutions. This transforms the role of public institutions from passive to active elements. In most cases, institutions pay exhibition fees once the project has been finished and shown, rather than contributing to its completion. By inverting this process, artists can freely develop their projects and do not need to depend on intellectual property in order to be paid for their work.

0. Public funding

When big projects such as feature films, large technological innovations, archives or other lengthy and expensive projects have to be financed, most of these initiatives need to be matched by public funding that will ensure their successful completion.

We believe that in the context of a society of tax payers, culture must receive a share of public investment due to its undeniable social value.

The current industry and distribution situation, artificially protected by the State, is distorting creation. In any case, [as David K. Levine point out](#), State and market support is not neutral. This is why the ecosystem created by internet has to be preserved as a system that is more democratic than any form of intervention. This is one more reason to defend net neutrality, because it means defending the self-determination of culture.

This is why we believe that:

1. All suitable funding models rest on the idea of the **free sharing** and appropriation of culture once it is produced. Controlling copies is dangerous in the digital context where copying is ubiquitous.
- 2 .Social funding must be matched by public funding and should in no case be considered as a replacement for **public responsibility** with regards to the funding of culture
3. **Tax deductions** should be implemented in order to promote micro-funding. An analogous system has long existed in the United States,

whereby not-for-profit organizations receive tax-deductible contributions under the provisions of section 510 (3)(c). It is worth noting that many projects seeking donations on crowdfunding platforms partner with 501(3)(c) organizations so as to be able to offer a tax write-off to potential contributors. Some platforms even offer 'fiscal sponsorship' from such 501(3)(c) organizations for a fee.

4. Free culture **should not constitute an anomaly**.

5. This is public money, and, as such, the public should at least have the option to decide how it is used. Transferring control over the funding process to the population would require canvassing of the population, and ensuring that work already produced actually gets seen. There are already platforms of this kind, for example in Sweden, where **citizens allocate public monies** amongst candidate projects seeking funds.

6. A proportion of existing funding should be allocated to works to be released under alternative licensing systems. This could be framed either in terms of consumption (CC-NA) or making material available for downstream productive re-use (CC-SA).

7. All funding recipients should make their works available on terms outside of conventional copyright. A minimum requirement would be that **they be released, after a reasonable time**, for circulation on digital networks so that those who paid for them have the right to watch and redistribute them on decentralized networks.

Given that **the commercial life of the vast majority of works is usually a maximum of five years** (and in some cases far less), one could decide to reserve certain rights (such as broadcast by subscription/advertising-funded channels).

8. **Alternative distribution channels** should be encouraged and the promotion of diversity should be considered an added value.

9. **Networks** of independent producers, distributors and creators should be strengthened.

10. **All the agents involved in the creation** of a "piece" should be considered as stakeholders in the share of investments and benefits, not only the producer

11. As [Rick Prelinger](#) suggests, whenever the cultural and knowledge commons stands to be affected by a business or governmental decision or project, there must be a prior "[impact statements](#)" to analyze the effects of a proposed regulation on the cultural and knowledge commons before it is implemented.

0. Commons-based strategies vs predatory market practices:

Look for the money where the money is.

We are concerned about the systematic destruction of the commons that may occur if measures are not put into place in order to ensure that the common assets are safe from looting by commercial interests and business dynamics.

This is why we believe that commoners should be able to benefit from the benefits of free culture, whilst measures should be put into place in order to ensure that private corporations cannot extract goods and knowledge from the commons without compensating or redistributing part of the profits they generate.

Licenses such as [Copyfarleft, proposed by Dmytri Kleiner](#), offer a kind of equilibrium in this struggle. Copyfarleft has been designed to allow commoners (all those who actively participate in the production, reproduction and management of the commons) to share and exploit the commons, but it conditions the ways in which corporations or for-profit entities can and should relate to the commons.

In cases where profit is generated, the author or the artist/creator must receive regular and fair payments which should be calculated in proportion to the access to his or her work.

In [the share economy as defined by Michel Bauwens](#) – the Web 2.0 business model – people form part of participative platforms in which they share the products of their creative expression. While their participation is largely unremunerated, the owners of the platforms sell the accumulated attention of their user communities to advertisers. This is the case with YouTube and similar platforms, and also some download sites.

In these cases, various voices ([KEI](#), [Moulier Boutang](#), [La-EX](#), [Kleiner](#)) propose that the community that contributes to the content should recover part of the surplus value, through a kind of levy on all transactions that would nurture pollination and ensure the existence of the content.

15% is the rate that several artists' unions have been asking for as the share allocated for remunerating content creators in the visual arts field. This parameter has inspired [La-EX\(exEXGAE\)](#) to propose that 15% of the profits obtained through content distribution platforms should be redistributed to those who contribute content to said platforms, in an indirectly proportionate cube root calculation based on a scale of 1 to 1000 from the work with the greatest number of 'hits' to an agreed minimum (see [Richard Stallman: the producer of content that is 1000 times more successful receives 10 times as much, rather 1000 times](#)), if and when the authors have made their identity public, if they want to receive this amount.

This would apply to platforms like YouTube, Flickr, Google, streaming and paid downloads, etc., or any platform with a business activity that is directly related to content distribution.

For a more detailed statistical methodology on content diffusion and cultural diversity, see the work by [Philippe Aigrain](#) listed in the bibliography.

0. Collective Financing System

A flat-rate on Internet connection can be considered only if it implies an equitable and democratic resource pooling system and recognizes citizens' rights to share and re-use works freely.

Since 2003, some researchers, activists, consumer organizations, artist groups, and policy makers have made proposals for a flat-rate based financing of creative works and artists. In their view, such a mechanism would allow full recognition of the right to share creative works without the aim of profit among individuals, and would put an end to the war on sharing, stopping the attempts of the major content publishing corporations to criminalize Internet users. However, there is not just one possible flat-rate model, but many, and they have very different implications and effects. The proposals differ in many respects, and **they are not all acceptable for us**: some present the flat-rate payment by Internet broadband subscribers as a compensation for an alleged harm caused by sharing to authors, artists and producers. Others see the flat-rate as putting in place a new reward and/or financing system, which is outside the scope of copyright and could enable a wider engagement in creative activity. Some see the scheme as similar to private copying levies managed by collecting societies, while others want to put in place an entirely new management model, giving the key role to Internet users themselves.

To achieve a possible implementation of a really equitable and democratic resource pooling system, the current conditions must undergo a profound change:

- 1 . A flat-rate is only acceptable if it guarantees a **stop to the war on sharing** and re-use. It must be a general sharing license and must not provide resources to the industries' lobbies that are engaged in the war on sharing.
2. A flat-rate proposal must **not reinforce the centralization of information and money** in the hands of organizations that are not accountable to the general public such as collecting societies. Currently, such institutions are driven by corporate interests in many countries. Its governance must allow creators (whether or not they are members of collecting societies) and the public to follow and evaluate this distribution.
3. The mission of organization(s) that could be put in place to collect or allocate funds must be strictly limited to **obtaining voluntary information** from Internet users relating to their preferences (for financing) or usage (for rewards) and acting accordingly in a verifiable manner to **distribute funds in a proportional, verifiable and public manner**.
4. A flat rate is not a compensation for harm, as there is no proven harm of any kind caused by sharing, while there are considerable proven cultural benefits. The first step towards a flat-rate system must be **the recognition that the cultural sector must face the digital world without interfering** with its fundamental paradigms and without wasting more time in adapting to this new universe.

5. Accordingly, flat-rate financing is only legitimate as a way to encourage creativity. It is important that the revenues derived from cultural activities go **directly into the hands of the authors** (and direct contributors to the works) and not middlemen. Collecting societies favour intermediaries and the industry at large rather than authors or, at best, they work in benefit of a limited number of established authors. This tends to homogenize cultural production and stifles cultural diversity. The new rights to rewards and/or financing should apply to the authors, artists, technical and direct contributors and only them. No existing contract for the transmission of these rights should be deemed applicable to the new rights.

6. The only prerequisite for authors to be eligible for a share in the proceeds of a flat-rate should be to publish and register their authorship, without having to be part of any union, guild or established agency. The idea of what a cultural object is must be completely revised (see "[Who Generates Culture?](#)"). The current definition of what constitutes cultural practices would exclude a huge range of creative production.

7. All types of digital productions that meet standards of originality (including re-use) should be eligible for rewards and/or financing, whatever their media and level of use. The flat-rate would have to entail redistributing benefits in a gradual manner: the amount assigned to each work should be in non-linear function to its popularity (see proposals by [Richard Stallman](#) and [Philippe Aigrain](#)). The revenue generated must be distributed only to living authors, artists, technical and direct contributors.

8. To be acceptable, a flat-rate scheme needs to include the right to transform works freely and to consider any new production, including works that are "user-generated" content, remixes and sampling-based works, to be fully eligible. **We can no longer enforce a division between producers/authors and consumers, because in a networked culture we are often both.**

9. A flat-rate can be considered only if it is a collective and statutory contribution to the creation of a common good. A flat-rate cannot be a tax (money collected with no specific goal) or a levy because it would constitute an indiscriminate levy just like the digital levy that the European Court of Justice in Luxemburg has recently declared to have been illegally collected, as it penalizes some sectors, such as the public sector and small businesses, on an arbitrary and unfair basis. Sharing is a fair and neutral activity, not something we should pay for or feel guilty about: the **Internet must remain neutral and shouldn't be taxed**.

10. A flat-rate **must not serve a particular industry** or group. It must be a mutualization (resource pooling) scheme organized within the joint community of Internet users and contributors to works, because it would otherwise open the door to demands from many other sectors that would want to impose their own levy on the Internet.

11. A flat-rate must be neutral in terms of costs incurred by businesses that exploit online content, as they neither benefit nor pay a contribution. It must not interfere with net neutrality or burden end-users with costs that should be assumed by the businesses that exploit this online content.

12. A flat rate scheme can be **accepted only if it respects privacy** and it is based on the voluntary provision of statistical data on usage and preferences and not on compulsory statistical data. Other measures should be limited to the prevention and investigation of fraud. The right to anonymity must be secured, which is a perfectly achievable goal with the existing technologies. Internet servers and webmasters should have the right to provide their own statistical data, without outside monitoring or control, except for the indirect detection of fraud. **Very secure measurement systems and distribution keys have already been proposed** (see [Philippe Aigrain](#), [Stallman](#)...). Internet users should have the right to access content on an anonymous basis and with no need to register or provide confidential information to the sites they visit.

10 (bis) Collecting Societies

Free Culture must seek distributive economic models that redefine the business terms underlying the creative corporations that are now in decline. As mentioned in the previous point, collecting societies have failed to promote this change, as they have aligned with the interests of major corporations and have failed to look after the interests of individual producers.

Artists and producers are re-organising themselves around more democratic formulas and platforms (C3S, [Creative Commons](#), [Freibank](#)...) and around licenses that are more open to the different business options that are offered by the digital age, where the predominant model is a mix of profit and non-profit. As set out in the [Charter for Innovation, Creativity and Access to Knowledge](#), we cannot accept collecting societies in their current form as the entities in charge of redistributing or mediating between the state and cultural producers for the following reasons:

1. Authors/creators should always be able to revoke the mandate of collecting societies. Royalties collection societies are private entities, so they should only be allowed to manage the accounts of their members, who are in no case the entire creative community.
2. Free competition among collecting societies should be permitted, as with all private entities. Legal monopolies for collection societies should be abolished.
3. Eligible authors and artists should be free to register with each society whatever works they choose, while leaving other works unregistered, or registering them elsewhere.
4. Authors and editors should not be represented by the same entity, as in the days of vertical organizations. Every member has to have the right to vote.
5. Above all, a collection society should only manage and collect royalties for works that have been registered with it.
6. No collection society should be allowed to prevent artists or authors from using free licenses.

7. Private collecting societies should not manage non-attributable levies. Any amounts that are not attributable to particular authors should be managed by the State for the purpose of promoting the creativity of society as a whole.

See [the Spanish CNC's comprehensive report](#)

0. Basic income

When we connect the issue of free culture to visions of large-scale social change in capitalist economies of tax-payers, then the idea of a basic income – that is, a minimum living wage for all citizens – becomes an issue worth considering. Under a broader based system of revenue applicable to all – since we all engage in forms of participation in cross-pollination and peer-to-peer activities – and we are all authors in a contribution economy –, all creators would be at less risk of not being able to meet their basic needs for survival.

[This basic income model](#) says that value is created collectively and that every citizen produce value in his or her interactions with others. This model would replace the situation that exists in the current regime of cognitive capitalism, where collectively produced value is accrued in the hands of a few, as private profit. Basic income is not an indirect revenue arising from redistribution, but the direct reward for the contribution of each member of society to pollination and interaction in the production, consumption and investment towards the building up of the new commons. Society, as a productive body, must be sustained and a guaranteed basic income is a way to redistribute economic wealth among society. It helps to create the conditions that allow citizens to contribute to value-creation outside the economy.

0. The Commons and Public Domain

In any case, access to, and the preservation of, the public domain and our knowledge commons should be guaranteed as a basic right of all members of society. As [L. Nagarjuna](#) has strongly argued, we must now devise systems to ensure that knowledge is not being privatized, and that access to free knowledge is always guaranteed. The public domain and the systems of social production that it enables are central to the creative industries, as it constitutes a repository of ideas, sounds, inventions and images that will serve as the base for any kind of contemporary cultural production. In this sense, we must build business models that can contribute to the development and growth of the public domain.

We must find ways to ensure that businesses that feed from the knowledge commons implement systems that favour the survival of the commons. In this sense, mixed economic models should be put into place in order to promote a commons-based economy. This implies re-thinking old legal categories and redefining the notions of public/private and also opens up interesting opportunities for generating business.

After the so-called copyright wars and the ensuing digital enclosures, we are now facing a situation in which knowledge and culture are being privatized. This must be reversed in order to guarantee a healthy system of cultural production. As [Laurence Rassel](#) argues, there is a need to build collective public archives which allow access to cultural content and help to preserve the dispersal and

loss of collectively-produced knowledge. But artists must participate consciously, because if they do not open up their production, then there will be no point in having frameworks oriented towards the public domain.

On the other hand, [Eric Kluitenberg](#) argues for the need to preserve and manage our cultural collective memory, claiming that mechanisms need to be put into place in order to ensure that we manage our cultural commons effectively.

We acknowledge that better, open archiving systems should be promoted and are needed in order to fully grasp and give visibility to all those shared cultural goods. Some interesting technological systems have already been devised, such as P2P networks, which are the best technological distribution systems designed to date for the distribution of cultural goods. As such, they shouldn't be criminalized or attacked, because they are essential to commons-based economies. Sharing is a crucial element in commons-based economies, the right to share should be guaranteed and people should in no case be prosecuted for sharing cultural goods.

These are some of the reasons why we believe that all cultural goods produced with public funding should be returned to society and remain in the public domain.

Another aspect to consider, as [Magnus Eriksson](#) points out, is that we should not only focus on production and access to culture but also work towards the collective production of the basic infrastructures that allow the net to operate. The growing privatization of the commons does not only affect the contents but also the structures and infrastructures that allow it to exist.

To learn more about Public Domain: see the [Charter for Innovation, Creativity and Access to Knowledge](#) and the [Public Domain Manifesto](#).

Part 3: GENERAL FRAMEWORK – THE SITUATION AS IT STANDS

1. Current context: Cognitive capitalism

The transformations that have taken place at the economic, political and cultural levels have created a real opportunity to democratize forms of generating wealth and knowledge, but they have also unleashed powerful forces pushing for the monopolization of knowledge.

The shift from mass production based on the “Fordist” model to a “post-Fordist” model has been driven by a series of changes in which the processing of information and the creation of knowledge have played a key role. The impact of information technologies, the optimisation of resources for ‘just-in-time’ production, the competitive priority of expanding supply through products and services targeted at different consumer profiles, etc. are some of the factors that have played an important role in this period of change.

The ‘New Economy’ has ushered in a series of strategies aimed at extracting maximum returns from culture and knowledge in the broad sense, which have increasingly become a source of wealth that has to be exploited.

Cognitive Capitalism needs to produce scarcity in the midst of an economy of abundance. It also works by satisfying people’s tendency to seek convenience (ease of use/access). Extracting profit from the general intellect has been the main concern of major corporations, for example, also through crowd-sourcing, crowd design, click-working. This puts industrial and intellectual property legislation at the centre of the debate, given that they are the key instruments for the privatisation of knowledge, although many corporations will not acknowledge the collective origins of this knowledge.

The notion of value and property that is naturalised under patents and restrictive copyright is the exact opposite of what we as civil society consider to be sustainable.

[*For further details on the legal aspects see the [Charter for Innovation, Creativity and Access to Knowledge](#) drafted at the FCForum 2009, which analyses the reforms that need to be applied to existing legislation in order to promote a digital age that is beneficial to artists, citizens and entrepreneurs*].

2. Competition vs Cooperation

Social creativity is captured and put to work generating surplus value for the capitalist system. But its positive externalities cannot be valued in the traditional way; surplus value cannot be measured exclusively in terms of the production of goods and services. [Yann Moulier Boutang](#) talks about ‘pollination’ in reference to the work of bees as pollen-distribution agents. Their productive practices exceed the honey-producing activity many times over. Bees are a metaphor for collective intelligence. Constant activity generates surplus value that then becomes subject to codification and control through intellectual and industrial property regimes. As [Konrad Becker](#) makes clear, this collective intelligence should be understood as a characteristic of social change and not as a peculiarity of any professional field.

This new reality is illustrated by the Net itself, in which users generate content that is consumed by everybody, while large corporations extract benefits by trying to control its diffusion, circulation and capitalization. The strategies they turn to in order to do so

include pushing for the implementation of directives and prohibitions that limit the transforming potential of the net.

In a way that can be seen as analogous to what happened to the Commons in the shift from Feudalism to Capitalism, when English landowners seized communal fields from the peasants through a series of legal (and not so legal) processes called enclosures, cognitive capitalism has its own new ‘enclosures’ that dissolve the communal regime of the digital commons.

As [David Bollier](#) points out, the capitalist system does not perceive the free flow of knowledge on the Net as a production base that must remain under the regime of the commons. Instead, it assigns a price to be paid in exchange for gaining access to it. The logic of free flow at close-to-zero cost is seen as incompatible with a sustainable business model, even though contemporary economics and business practices have proven that this is not the case.

The new business models that consider collective production as a context that needs to be nurtured and safeguarded, rather than simply as a context to be exploited, are based on the premise that cooperation is co-substantial to market dynamics. The most evocative practical examples, which have inspired a range of movements based on a similar collaborative nature, stem from free software communities. As is widely known, these communities generate collective output and share it under free licenses, allowing third parties to use and modify the code as long as the same freedoms are obligatorily applied to the derived work, thus creating a commons that is constantly improved by successive contributions. This takes place under a viral logic that spreads freedom throughout the licenses of all derivative works, while not preventing the commercial exploitation of the knowledge and skills arising from them, and of the works themselves.

As the P2P Foundation’s [Michel Bauwens](#) argues, in the logic of free culture or peer-to-peer, users become generators of value, and form part of a virtuous circle of production and consumption that they benefit from.

Embodied in a different logic, the traditional cultural industries that are resisting the changes that are intrinsic to the digital age want to keep feeding off collective production, without responding to the collaborative logic that is now current thanks to the Internet. These industries try to keep imposing appropriation frameworks onto the commons, entrenching themselves in the idea of proprietary and predatory culture (the economy of scarcity), which is totally removed from the philosophy of free culture (the economy of abundance).

Annex:

Bibliography

Over 150 documents sustainable-models-for-creativity/bibliography

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ENDORSEMENTS

Alphabetical order:

1. [ALT1040/Eduardo Arcos](#)
2. [Johanna Blakley/Norman Lear Centre](#)
3. [David Bollier/Commons Strategy Group](#)
4. [Bufet Almeida Abogados](#)
5. Florencio Cabello, Facultad de Comunicación, Universidad de Málaga
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