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Yes, We're Open! Why Open Source, Open Content and Open Access

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Table of Contents

1. Editorial
By Elliott Bledsoe and Jessica Coates, Queensland University of Technology, Australia.

2. An Interview with Esther Wojcicki
By Elliott Bledsoe and Jessica Coates, Queensland University of Technology, Australia.

3. The State of the Commons: Case Studies 2010
By Rachel Cobcroft, Queensland University of Technology, Australia.

4. Sharing with Creative Commons: A Business Model for Content Creators
By Cheryl Foong, Queensland University of Technology, Australia.

5. Can Open Mean Terbuka? Negotiating Licenses for Indonesian Video Activism
By Alexandra Crosby, University of Technology, Sydney, Australia and Ferdiansyah Thajib, KUNCI Cultural Studies Center, Indonesia.

6. Cooperation and Competition in Open Production
By Peter Jakobsson, Södertörn University, Sweden.

Editorial

Elliott Bledsoe and Jessica Coates

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Arguably, the concept of an 'open' or 'free culture' movement first emerged when Richard Stallman was lamenting a paper jam. The culprit – a then-cutting edge prototype Xerox 9700 laser printer – had failed to print a 50-page document Stallman had thought was waiting for him on the print tray. No one had responded to the jam. The print queue was growing with each new document, but nothing was coming out.

It was 1980. Stallman was working at the MIT Artificial Intelligence Lab. When a similar problem emerged with an earlier printer on the Lab's network, Stallman simply modified the software to work around the inefficiency. But Stallman could not update the 'hack' that fixed that problem to this new device. Xerox had not published the source code of the software that controlled the printer. Worse still, they were using non-disclosure agreements to curb the distribution of the source code by developers with access to it.

This event galvanised concerns Stallman had about the trajectory of software development. Stallman foresaw the erosion of the hacker ethic – a sort of unwritten code of conduct upheld by early computer programmers. At its core, this ethic valued sharing, openness and decentralisation of information[1] – notions that did not sit well with the commercial strategies of corporates who were investing in software and programmers. As corporations began bankrolling software projects, they naturally sought ways of protecting the economic value in these projects. They wrapped copyright licences around software that made its use comparatively limited. Quintessentially, such arrangements grant the licensee a right to run the software only and explicitly limit them from distributing copies. These licences also generally prohibit modifying or reverse engineering the software, an objective further pursued by not distributing the source code with the software package.

Stallman cites[2] the circumstances around his denial of access to the Xerox printer's source code as the impetus for establishing the Free Software Foundation (FSF).[3] Founded in October 1985, the organisation promotes "the development and use of free (as in freedom) software and documentation."[4] One of the earliest outcomes of the FSF was the release of the GNU General Public License[5] (GNU GPL or GPL), a copyright licence that explicitly allows

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the copying, distribution and modification of software. It also compels all derived works to be licensed under the same terms, in order to preserve these granted freedoms downstream. This licensing scheme, together with similar licences, would go on to be known as Free/Libre and Open Source Software (FLOSS).

During the intervening decades this 'open' movement has grown and evolved dramatically. As the internet has gradually become a fundamental and inextricable part of people's daily lives, so too the concept of open has become an inextricable part of the internet. New players have extended the GPL's reach well beyond the GNU Operating System[6] for which Stallman originally wrote it. While much of this open software may go unnoticed – like the fact that most of the software that makes the internet possible is open licensed – software powerhouses like Mozilla and Sun Microsystem/Oracle have helped bring open source software into public consciousness by spearheading numerous open source projects including the Firefox web browser[7] and the Java software platform[8].

In 2001 another influential arm of the free culture movement entered the field with the launch of Creative Commons.[9] Against a background of increasing copyright protection – most notably the passing of the *Copyright Term Extension Act of 1998* or *Sonny Bono Act* – Professor Lawrence Lessig and a battalion[10] of IP and internet commentators sought to extend the model devised by the FSF to more traditional creative products, such as books, films, music and pictures. Although not the first to attempt this, Creative Commons' flexible approach and focus on ease of use has stimulated its rapid and viral adoption. Through its core suite of free copyright licences and tools, and partnerships with popular content sharing services like Flickr, Vimeo and Google, Creative Commons has made it possible – and popular – for anyone to share their creations.

(Not) Defining Open

There is no consensus as to what it means to be open. In fact, even the language adopted by proponents is changeable, with terms such as 'free', 'open' and 'commons' used by different groups in different contexts. These different notions of openness have spawned individual communities of interest, each developing and adhering to their own philosophy and norms. Some of these differences are only superficial, while others diverge significantly on key philosophical matters.[11] What results is that not every community, organisation or licensing scheme means the same thing.

The definition of open source[12] advocated by the Open Source Initiative[13] is often cited as authoritative. It is similar to the Open Knowledge Foundation's[14] definition of open knowledge[15] and Opencontent.org's 4Rs Framework for defining open content.[16] All three definitions emphasise non-discriminatory access, unfettered distribution, access to the source and required downstream licensing as being key characteristics of openness. Similarly, Freedomdefined.org holds that for a work to be a 'free cultural work' it must be licensed under a free culture licence[17] and not be released in a way that restricts the essential freedoms granted by such licences.[18]

Although the philosophies and practicalities of 'open' and 'free' vary between communities and individuals, they are all united by the same simple objective – to make it easier to share and re/use knowledge, culture and content, legally. This objective is fuelled by a fundamental belief that the current copyright laws are not well suited to the new cultural and communications environment. The 'You can't touch this' approach of traditional 'all rights

reserved' copyright, coupled with aggressive expansion of corporate control of significant cultural products, has heralded a 'permissions culture', an environment where you need to ask for permission to do pretty much anything. Almost everything you might want to do is reserved as the creator's exclusive domain. That dominion lasts a long time; well after the authors have died for most works. And since copyright applies automatically to any creative product the moment it is produced, from computer programs to shopping lists, the result is that a lot of stuff is locked out of the public's hands.

While this level of protection may be good for major corporate players and some artists and authors, arguably such stringent legal restrictions were never intended to apply to, and are not appropriate for, the vast majority of works created. Holiday snapshots, government data, video diaries – while all of these need some protection, in many if not most circumstances the default standard designed for Disney films will not suit the desires of the creator or their intended audience. While this has always been the case, the internet and digital technologies have shone a stark light on the inequity this system fosters, by exponentially increasing the number of works created, bringing the huge resources of amateur and noncommercial producers into the public eye and, most importantly, unleashing a demand for material that can be shared and reused.

Free culture proponents aim to address this inequity not by shifting the goalposts of default copyright, but by utilising the private rights of copyright owners to foster a more flexible copyright environment. Designed with control and the enforcement of monopolies in mind, these rights – the right to choose how creative works are used, and to license such uses to others – can equally be used to facilitate sharing. Recognising that some creators do want or need strict control over their works, open content licensing schemes seek not to change copyright law to create a new blunt standard that will reverse the permissions culture, creating a situation equally inappropriate for large categories of works. Rather such schemes work to empower individual copyright owners to make their own decisions about how their material is used and to provide them with legal tools to help them make that decision known. By providing information, education and tools, the free culture movement aims to make it easier for those who want to share their material with others to do so, regardless of their motivations.

Open Is Mainstream(ing)

Thanks to this simplicity, pragmatism and flexibility – and arguably in large part the diversity in the voices that now champion these philosophies – at the end of the first decade of the new millennium, open is cool. Collectively two of the most widely used open source web browsers – Mozilla's Firefox and Google's Chrome[19] – have pushed past 40% share of the web browser market.[20] The number of Creative Commons licensed works has reached more than 250 million.[21] New approaches to copyright management and commercialisation designed to help, not hinder, digital sharing are being experimented with by Hollywood,[22] President Obama,[23] Yoko Ono[24] and even Coca-Cola.[25] The new commons are flourishing on digital networks and the concept of 'open' has embedded itself across sectors, industries and communities like an internet meme, bringing with it new fields of academic thought, from computer science to economics, from sociology to law. Perhaps open is now mainstream?

With this in mind, this special 'open' issue of *Platform* focuses not on the past of the free culture movement – debates on issues such as 'What is open?' and 'Will it work?' – but on

the 'Now where?' It chooses to explore the more pragmatic questions that occur when an idea becomes reality – the whys, hows and wherefores of open as it enters the mainstream.

We are privileged to be able to begin this issue with an interview with one of the leading thinkers in the field, Esther Wojcicki, the Vice-Chair of the Creative Commons Board of Directors. Esther is an award winning journalist and educator, who has taught at Palo Alto High School in California for 25 years and blogs regularly for *The Huffington Post* and Hotchalk. She is an articulate and experienced advocate of open, using it in her professional and personal life. In Wojcicki's interview she introduces us to the background philosophy of Creative Commons through the lens of her experience, giving her take on why rights literacy is necessary to teach a generation that will work and play primarily on the net.

Providing a broader overview of where things are at, the issue commences with Rachel Cobcroft's piece chronicling the development of the international Creative Commons Case Studies initiative. The 2-year-old qualitative research project uses real world examples to gauge the impact of the Creative Commons licensing scheme's legal, technological, social, media and policy initiatives. As well as providing the fundamentals of the Creative Commons model, Cobcroft's piece examines the progress of open content licensing; identifies models of implementation and licensing trends across industry sectors as diverse as music, government, wikis and fashion; and, perhaps most importantly, explores individual motivations for the adoption of open philosophies.

A similar focus on motivations is central to our second piece by Cheryl Foong. However, in contrast to the broad picture provided by Cobcroft, Foong takes a narrow focus for her analysis, asking the question can open philosophies go hand in hand with commercial gain? Drawing on examples of adoption of Creative Commons licensing by content creators and intermediaries, Foong concludes that, if used wisely, the open licensing scheme can be a useful tool for those creators who wish to circumvent traditional distribution channels dominated by content intermediaries, while maintaining a level of control over their copyright works. However, Foong identifies a need for caution - giving your work away is not a business model in itself, and only those who can successfully adapt the tools provided by the open movement to, as Techdirt CEO Mike Masnick puts it, connect with fans and give them a reason to buy,[26] will achieve success in this space.

The message that open is valuable, but does not solve all problems is taken up in our third paper, a collaborative piece by Alexandra Crosby and Ferdiansyah Thajib. Viewed through the lens of video activism in Indonesia, Crosby and Thajib seek to explore the experience of individual creators attempting to tackle the behemoth of copyright in the liberated, but confusing, internet age. In doing so, they argue that while open licensing is an improvement on the models of the past, there is not yet a solution for the problems of copyright management that fits the Indonesian context. Of particular concern are issues of collaboration and credit in a world where attribution is the new currency, and the increasing gap between the global rhetoric of copyright enforcement and the diversity of practices on the ground. In the end Crosby and Thajib conclude that if the commons movement is to be successful in Indonesia, it must address cultural issues, images of imperialism and practical barriers to clear and open licensing in a society where no strong copyright tradition exists.

The final paper by Peter Jakobsson also focuses on the principle of collaboration that underpins the current commons movement, but with a more critical, theoretical eye. Relying primarily on the analytical model provided by Rene Girard's theory of mimetic desire, Jakobsson

examines the relationship between the growing trend, and rhetoric, of cooperation on the 'social web' and the often undervalued importance of competition in the same field. In doing so, he argues that both competition and collaboration are not only valuable but central to the new forms and platforms of cultural production. Most interestingly, to demonstrate his argument he draws on the real world example of YouTube's Partnership program, demonstrating that even in a limitless world, scarcity still exists in resources such as viewer attention.

We hope that these collected papers help our readers to explore and consider the question of open, its place in our current creative environment, and the value it can add to a world of increasing collaboration, experimentation and innovation. We hope they bring a little more freedom into the world.

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Endnotes

1 Levy, S. 1984. *Hackers: Heroes of the Computer Revolution*, New York: Doubleday.

2 See Williams, S. 2002 *Free and in Freedom: Richard Stallman's Crusade for Free Software*. Sebastopol: O'Reily & Associates. Available online at http://oreilly.com/openbook/freedom.

3 http://www.fsf.org.

4 http://www.fsf.org/about.

5 http://www.gnu.org/licenses/gpl.html.

6 http://www.gnu.org.

7 http://www.firefox.com.

8 http://www.java.com.

9 http://creativecommons.org.

10 The founding Board of Directors of Creative Commons Corporation were cyberlaw and intellectual property experts James Boyle, Michael Carroll, Molly Shaffer Van Houweling, and Lawrence Lessig, MIT computer science professor Hal Abelson, lawyer-turned-documentary filmmaker-turned-cyberlaw expert Eric Saltzman, renowned documentary filmmaker Davis Guggenheim, noted Japanese entrepreneur Joi Ito, and public domain web publisher Eric Eldred. See http://wiki.creativecommons.org/History.

11 See for example the criticisms of the Noncommerical Creative Commons licences put forward by some proponents of the open source software community.

12 http://opensource.org/docs/osd.

13 http://opensource.org.

14 http://okfn.org.

15 http://www.opendefinition.org/okd.

16 http://opencontent.org/definition.

17 Freedomdefined.org classifies a licence as being a 'free culture licence' if it grants:

- The freedom to use and perform the work;
- The freedom to study the work and apply the information;
- The freedom to redistribute copies; and
- The freedom to distribute works derived from the original.

18 http://freedomdefined.org.

19 http://chrome.google.com.

20 As at October 2010. Determined based on the cumulative median of both browsers.

21 Ito, J. 2009. "Creative Commons: Enabling the next level of innovation". *What Matters*, http://whatmatters.mckinseydigital.com/internet/creative-commons-enabling-the-next-level-of-innovation.

22 http://creativecommons.org/weblog/entry/7196.

23 http://www.whitehouse.gov/copyright.

24 http://imaginepeace.com/archives/8310.

25 http://creativecommons.org/weblog/entry/17299.

26 Mike Masnick. 2009. "My MidemNet Presentation: Trent Reznor And The Formula For Future Music Business Models." *Techdirt*. Presented at the Midemnet conference on 17 January 2009. Available at http://techdirt.com/articles/20090201/1408273588.shtml.

Interview with Esther Wojcicki

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We begin this issue with an interview with one of today's leading proponents of open philosophies: Esther Wojcicki, the Vice-Chair of the Creative Commons Board of Directors. Having studied at UC Berkley, the Sorbonne and San Jose State University, Esther has taught journalism at Palo Alto High School in California for 25 years, where she has helped to establish and build the largest student journalism project in the US (http://voice.paly.net). She has won multiple awards as an educator, including the California Teacher of the Year in 2002, and has worked as an educational consultant to Google, helping to design the Google Teacher Outreach program (www.google.com/educators). She is also a prominent journalist who blogs for The Huffington Post and Hotchalk.

Esther has been on the Creative Commons Board since 2005, and is currently the Vice Chair, with a particular focus on education initiatives.

Below she answers questions on open education, journalism in the digital age, and the meaning of "open".

Elliott and Jessica: As I am sure you are aware Esther, this issue of Platform is themed "Yes, We're Open!" What does 'open' mean to you?

Esther: Open to me means free to use, remix, and share. It also means the freedom to learn whenever and wherever the user has a wi-fi connection and a connecting device.

More specifically, open means that the creators have given prior permission to users to share their creative works – text, video, audio, art, images – provided that the user abides by some of the Creative Commons license restrictions. In some cases it means open to remix, but in others it does not.

There are basically four conditions and six licenses (a combination of the four). The four

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conditions are as follows:

1. BY - Give attribution to the author;
2. SA - Share any changes you make under the same license;
3. NC - Only use the work non-commercially; and
4. ND - Don't make changes to the original.

One important goal I have for CC is to spread the word to educators about Open Education Resources (OER) and CC licensing because most educators today are unaware of or cannot find OER and know little about CC licenses. Last spring I gave a talk at Columbia University to a group of educators; I asked the educators to raise their hands if they knew what OER was and only two people raised their hands. That is pretty upsetting. Educators need to know about OER, how to find it, and how to use it.

E and J: You have recently been appointed Creative Commons' Vice Chair, with a focus on learning and education. Thinking about notions of openness, what does this mean for education?

E: In my new role as Vice Chair I am concentrating specifically but not exclusively on OER and CC licenses in education. I am trying to reach out to educators worldwide.

Here are some of my goals in the coming year:

- Update the CC website so that OER and education materials for teachers will be easy to find and featured on the front page;
- Gather already-created teacher and classroom materials about CC and making them easy to find on the CC website;
- Encourage the creation of more OER and CC-in-the-classroom materials worldwide;
- Include educational use cases of OER so teachers can get some ideas of how to use these resources in their classrooms;
- Create an OER-Creative Commons Course that can easily be given as a half day professional development session for teachers and set up a team of CC International Trainers for Education that can go into schools; and
- Improve the quality of OER search by developing a standard or methodology for the tagging of all OER so it can easily be found on Google/Yahoo/Bing searches.

E and J: Commentators have long talked about the importance of media literacy and digital literacy in schooling. Do you feel that rights literacy should be added to this list?

E: It is important for students today to be media and digital literate. I have just developed a website that will hopefully give teachers some lesson plans to help kids be media and digitally literate, but I have also included "rights literate." It is called 21stcenturylit.org[1] and the goal is to provide teachers with lesson plans to teach writing for the web, searching on the web, and rights for the web. The "Rights Literacy" section includes information about copyright and CC licenses, something very important for kids today.

Teachers today need to know how to teach the next generation to share legally on the web. We need to teach kids to respect and understand copyright but also to understand the

use of CC licenses and the power they have in helping kids to share their ideas. Both copyright and CC licenses have their place in society and students need to understand these rights. To accomplish this goal, we need to teach students "rights literacy" which explains and gives examples of copyright and CC licenses.

I am proposing the development of a Creative Commons Course for Educators that will help teachers and students understand a) what is copyright b) how it needs to be modified to meet 21st century needs c) what are Creative Commons licenses and d) how CC licenses can be used both in the educational setting and in the world e) what is OER f) how OER can support the classroom.

E and J: You also work as a journalist, and you've spent many years as a journalism teacher. In that industry there's a lot of attention at the moment on online business models for newspapers. What can CC add to this debate?

E: In my work as a journalist and a journalism educator, I have used CC licenses and encourage my students to do so as well. Before a journalist uses a CC license they should ask themselves if their goal is to get their ideas out on the web or to make money. If their goal is to make money, then they should keep the copyright and not use a CC license. On the other hand, if they want their story and their ideas to spread on the web, then they should use a CC license.

Websites should think the same way. If they want their ideas out there, they should use a CC-BY license. They might want to experiment with only licensing some pages or stories to see how it works if they're unsure. They may be happy to see that the pages that a CC-licensed may spread faster.

Just imagine what would happen on Twitter if all the users required you to request permission and pay to retweet. The power of Twitter as a communication tool would be gone. The same logic works for longer creations. If you tie your work up in copyright, which effectively imposes a high transaction cost, then the power of your ideas is severely restricted.

Non-profit news websites should also consider using CC stories by reliable sources. It looks like the Bay Area is the center for non-profit journalism according to a recent article by The New York Times.

E and J: Is 'open' the new black?

E: Yes, 'open 'is the new black. But in fact, being the 'new black' traditionally means it is just a fad; however, this is not true for 'open.' Open is the black. Those outside are looking for ways to be open but need help understanding how to make the transition so they can be part of the future. Can you imagine going to a web where users would have to pay to access their search returns? 'Open' is now.

Endnotes

1 http://21stcenturylit.org.

2 See "Bay Area Emerges as Center of Nonprofit Journalism" in Bay Area Blog, The New

York Times, http://bayarea.blogs.nytimes.com/2010/04/10/bay-area-emerges-as-center-of-nonprofit-journalism.

The State Of The Commons: Case Studies 2010

Rachel Cobcroft

Queensland University of Technology, Australia

Abstract: 'What artists need to see before they can feel confident about the licenses are examples of other[s] taking the licenses; incorporating them into their practices.' – OpenBusiness.cc, p. 8

The Creative Commons Case Studies initiative, established in 2008, offers the 'free culture' community a qualitative resource to chronicle trends in open content licensing (OCL). Seeking feedback as to individual and organisational motivations towards OCL adoption, and through its provision of usage data, jurisdiction and disciplinary distribution, the CC Case Studies wiki complements current quantitative research projects such as CC Monitor. Containing over 200 entries in July 2010, the CC Case Studies wiki covers several genres such as publishing, moving images, music, visual arts, interactive resources including games, performance, education, and 'government 2.0' open data initiatives. Entries represent 25 contributing jurisdictions, with studies being written in several languages including English, Spanish, Portuguese, German, and Korean. By sharing stories of success and identifying areas of innovation and collaboration, the CC Case Studies wiki encourages creators to contribute to the Commons, whilst contributing to a broader understanding of the dynamics of 'free culture.'

Introduction

On 7 May 2010, the Socialist Republic of Vietnam became the 53rd jurisdiction to adopt Creative Commons ('CC') licences worldwide.[1] The expanding reach and impact of CC licences internationally has led Creative Commons' CEO Joi Ito to declare that the movement has reached a 'threshold of adoption where we can now legitimately call CC a global standard.'[2] Celebrating its seventh anniversary in December 2009, the non-profit organisation reflected on its recent successes:[3] the adoption of its open content licences (OCL) by the United States White House[4] and Arabic-language news network Al Jazeera,[5] by major educational and scientific institutions such as the California Learning Resource Network (CLRN)[6] and National Institutes of Health (NIH),[7] 'to countless individual bloggers, musicians, photographers, teachers, and

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more.' The intention of the Creative Commons Case Studies initiative[8] is to share such stories and to document the licences' many legal and linguistic adaptations worldwide with increasing rigour.

This paper develops a descriptive framework to facilitate qualitative analysis of the 220 entries now available on the CC Case Studies wiki, identifying emergent trends in OCL across participating jurisdictions. In outlining prominent motivations to license under CC, in addition to identifying specific licence selection, the paper demonstrates the significant reach and impact of Creative Commons over its seven years of operation.

As such, this paper provides an update to *Building an Australasian Commons: Case Studies Vol. 1*[9] and 'Capturing the Commons: (Ways Forward for) The CC Case Studies Initiative',[10] noting prominent developments in the domains of publishing, film and visual design, music, education and democracy, including the 'open data' movement. It is hoped that the findings presented here will inform Creative Commons' engagement and education of content creators and re-/users worldwide, and contribute to further qualitative analysis.

By identifying themes, the paper fulfils a primary role of qualitative analysis.[11] Its descriptive framework allows the researcher to situate specific phenomena – or *case studies* – within their real-world context, to draw comparisons, and propose, pilot, and validate models. As observed by Gery Ryan of the RAND Corporation in relation to the standards of rigour for qualitative research:[12]

> 'In exploratory mode, the goal is to discover themes and patterns and to build initial models of how complex systems work.'

A Note on CC Licences

The six primary Creative Commons licences are explained in detail on the organisation's site,[13] in human-readable, machine-readable, and legal form. Standard abbreviations are employed throughout this paper (CC BY, CC BY-NC, CC BY-NC-SA, etc.), referencing the four licence elements of:

- Attribution (BY): Licensees may copy, distribute, display and perform the work and make derivative works based on it only if they give the author or licensor the credits in the manner specified by these;
- Non-Commercial (NC): Licensees may copy, distribute, display, and perform the work and make derivative works based on it only for non-commercial purposes;
- Share Alike (SA): Licensees may distribute derivative works only under a licence identical to the licence that governs the original work;
- No Derivatives (ND): Licensees may copy, distribute, display and perform only verbatim copies of the work, not derivative works based on it.

A tool to determine licence interoperability is available via Creative Commons Taiwan.[14]

Methodology

This paper follows Robert K. Yin's widely employed conception of case study methodology,[15] defined as:

> '[A]n empirical inquiry that investigates a contemporary phenomenon within its real-life context; when the boundaries between phenomenon and context are not clearly evident; and in which multiple sources of evidence are used.'

Case study methodology allows a multi-method approach, encompassing both quantitative and qualitative techniques, with complementary perspectives leading to greater research validity and reliability.[16] The CC Case Studies wiki enables researchers to categorise, tabulate, and recombine data to pursue different lines of enquiry, primarily in response to 'how' and 'why' questions surrounding licence adoption. Additionally, it allows investigators to capture emergent and immanent perspectives alongside the historical, thereby establishing a chain of evidence in a publicly accessible way.

The CC Case Studies project seeks to gauge the impact of the organisation's legal, technological, social, media and policy initiatives. By chronicling cases of the Commons' success and identifying areas of innovation, the wiki engages the free culture community in the discovery of new works, new models, and new ways forward for CC. As a repository of site statistics and usage data, it allows various analyses of the commons over time. This project complements current quantitative initiatives undertaken by Commons researchers, such as CC Monitor,[17] and as further noted on the CC Metrics site.[18]

Yin designates three types of case study: exploratory; explanatory; and descriptive.[19] Exploratory studies seek to define the questions and hypotheses of subsequent studies or determine the feasibility of proposed research. Explanatory studies aim to test the causal relationships in hypotheses. Descriptive case studies seek to present a complete description of a phenomenon within its context.[20]

By examining emergent patterns within collected data and positing theories as to causation, over time it should be possible to understand the context in which the case studies operate, together with various institutional and societal interventions. This paper presents an initial descriptive framework on which to base subsequent investigations.

The case study protocol initially employed in this investigation has sought to capture the key characteristics of CC licensors, with primary, open-ended questions asked of contributors being:

- ***Overview***: Please provide an overview of the work. Describe the author or organization (location, funding/business model, partner organizations), objectives, current projects.
- ***License Usage***: Please specify the license adopted. How is the license applied? Can you provide any available statistics?
  What has been the author or organization's experience with Creative Commons licenses so far – what have been the benefits and lessons learned?
- ***Motivations***: How did the author or organization first hear about Creative Commons?
  Why did they choose to license under Creative Commons? Which license did they select and why?
- ***Additional Comments***: Any other issues you may have come across/comments you'd like to make.
- ***Media***: Please include any screenshots, logos, links to videos, audio files, press

hits, etc.

Data gathered thus outlines individuals' and organisations' engagement and experience with OCL, current business models and stated goals.

With regard to case study selection, initial participants identified in *Building an Australasian Commons* included individuals and institutions known to the organisation through professional connections, in addition to those found through track-back licence links. Promotion of the project via the CC Network[21] and annual fundraising campaigns[22] has brought a wider participation to the wiki.

The author has classified each of the 220 wiki entries by licence type, jurisdiction, and discipline. The jurisdictional breakdown of entries is found in Appendix A, whilst each discipline heading commences with a list of pertinent cases, noting respective licence adoption. Ascertaining specific motivators and connectors with the commons, the author has undertaken textual analysis of not only the wiki but also news items on the CC site, identifying common memes.

At present, a second case studies volume is in production at Creative Commons Australia, to document innovative business cases emerging from the wiki. For this reason, business models will not be identified in detail here.

Certain entries are excluded from this analysis, owing to the incomplete nature of their statements, or inconsistencies between statements on the wiki and the material they reference (e.g., the claim that content is licensed CC BY when a website states All Rights Reserved.) This points to the need for the inclusion of metrics of wiki content, employing a ratings system similar to that of Wikipedia.[23]

Sector summaries shown at the end of each discipline seek to demonstrate licensing trends. Platforms offering all CC licences are counted in each licence; hence, the total number of projects is not discrete. Projects constituting each section are found in Appendix B. These summaries have been compiled by noting the specific licences chosen by individuals and institutions per sector, as well as those made available via specific publishing platforms, to demonstrate the current licensing behaviours of CC adopters, as indicated on the wiki.

Primary Motivators to Contribute to the Commons

Individuals and organisations participate in the Commons for a variety of reasons, some philanthropic and others self-promotional, some philosophical and others wholly utilitarian. As identified by Andrea Hemetsberger,[24] incentives to contribute may be divided along such lines, between interest held in self and others, reaping extrinsic and intrinsic rewards. As seen through the range of current case studies, the following factors significantly influence commitment.

Publicity

> 'Creative Commons is like having 100,000 free publicity officers. You get heaps of people watching your film because no one is scared of being arrested because of it.' – Pete Foley, Black brow[25]

Creative Commons' guarantee of attribution has inspired several creators to contribute their

works to the Commons, typically under CC's 'advertising' licence, CC BY-NC-ND.[26] The free distribution allowed by this licence enables the spread of works whilst maintaining their integrity. Musician Brad Sucks summarises as follows:

> 'I think CC licenses, the entire open attitude is absolutely essential for artists that don't have huge promotion budgets. Without the money to force advertising and radio play down people's throats, you have to rely on the good will of your fans spreading your music for you. And if you handcuff them by making it illegal, I think you're doing yourself a real disservice.'[27]

As Flickr photographer Bettina[28] observes in the inaugural ccSalon Australia exhibition, 'Creative Commons gives me the confidence to share in the knowledge that I will be recognised for my work.'

Legal Certainty

> '[A]rtists have more control over their work and the creative process than they ever had before.' – Matthew Siegel & Daniel Zaccagnino, Indaba Music[29]

The legal protection provided by CC licences is of critical importance to creators. Establishing a 'transparent, reliable, and accountable rights environment,'[30] CC offers 'flexibility and accessibility,'[31] overcoming the need to consult with lawyers. CC therefore reduces transaction costs associated with content production and distribution, all-important in the age of User-Generated Content. Copyright cases such as Adam Curry's claims against Dutch tabloid *Weekend*[32] are closely scrutinised by contributors to Flickr and other social media sites,[33] to ensure that CC licences continue to provide appropriate legal protection.

Reciprocity

> 'If you give away cool stuff, what you get in return is always more!' – Ton Roosendaal, Blender[34]

Reciprocity, also known as '*quid pro quo*,' is the expectation that contributions to the commons will return benefits to the creator, realised through both economic and reputational gain or, as Robert Putnam terms it, 'social capital.'[35] As noted by CC musician Chris Willits, associated with this is the trust placed on an audience to buy merchandise and attend concerts in exchange for the free distribution of his music.[36]

The importance of contributing in-kind is eloquently expressed by Misteriddles, an exhibitor in the inaugural ccSalon Australia:

> 'I have found access to others' images very useful. Consequently, it is only fair that I put some source material back into the community for others to use in their own experiments.'[37]

The market and social dynamics of the 'sharing economy' have been the subject of several academic texts, most notably Yochai Benkler's *The Wealth of Networks: How Social Production Transforms Markets and Freedom*.[38] Throughout the wiki, creators have expressed their desire to participate in a 'sharing culture,'[39] as seen with Pamoyo:

> 'We believe in collaboration and that, by sharing ideas and build[ing] upon each other, great things can be achieved.'[40]

Equally, Anson Mak of *A Map of Our Own* observes:

> 'It is important to promote diversity both in the views and practices of copyright to encourage creativity and sharing.'[41]

Whether a creator holds the expectation of direct benefit may influence licence choice, such as the selection of a ShareAlike 'copyleft' licence, which places a formal requirement on the equivalent licensing of derivative works. This issue has gained significant attention in the FLOSS community since its inception.

Public Good

> 'Part of the Library's mission is "to contribute to the common good by collecting, organizing, preserving, communicating, and sharing the record of human knowledge."' – Molly Kleinman, University of Michigan Library[42]

As noted in Government 2.0 initiatives, there is now a governmental and institutional imperative to distribute publicly-funded research data and cultural works under OCL.

In the United Kingdom, Gordon Brown initiated this trend with the Power of Information Taskforce,[43] established in March 2008 to identify exemplars and enablers to the release of government-held information, to increase democratic engagement and foster innovation. This is now manifest in data.gov.uk,[44] seeking to make Public Sector Information (PSI) easy to find, license, and re-use.

In the United States, the Obama-Biden Administration announced its intention to create a transparent, participatory, and collaborative government, observing, 'Openness will strengthen our democracy and promote efficiency and effectiveness in Government.'[45]

Australia's Government 2.0 Taskforce[46] followed suit, seeking to make government more consultative, collaborative, and accessible. Other jurisdictions are increasingly adopting open data and PSI initiatives to bring greater engagement and enlightenment to their citizenry.

Similarly, International IDEA's research seeks to promote accountability, efficiency, and transparency for democratic processes and institutions, and to inform the debate surrounding political participation and capacity building.[47]

Altruism is expressed by numerous NGOs and individuals, given their belief in contributing to the public good without expectation of direct reward. The 'gift economy'[48] is explored directly in GiftTRAP, and articulated by Sam Stephens of Postmoderncore: 'These licenses… expressed ideas I already had about creativity as a gift, rather than something to be owned and hoarded.'[49]

Co-Creation

CC licences allow creators to contribute content to the community for reuse and remix whilst availing others' openly-licensed works. ccMixter is the perfect example of this.[50] Equally, Brett

Gaylor's 'participatory media experiment' *RiP!: A Remix Manifesto 2.0*[51] provides users with a platform and content to collaborate in the creation of a shared cultural experience.

Reflecting on 'My Life Changed,' a remix of his track 'My Life,' Colin Mutchler expresses his joy at finding others 'who wanted to collaborate across space and time.'[52] Producers of vodcast Epic Fu likewise remark,

> 'The topics we are most interested in involve individuals, artists, and groups who are using technology and the web to define a new idea of what it means to collaborate with each other and distribute their ideas globally.'[53]

According to Albert Bandura,[54] such collaboration brings participants a sense of 'self-efficacy,' of contributing significantly to a group to achieve a desired outcome. As observed by Hemetsberger,[55] creators may also contribute to the completion of a task or product because they derive an important utilitarian benefit from doing so. Contributors to Knowledge Management network GotoKnow.org[56] are an exemplar of this, participating in this collaborative network to solve both collective and individual issues.

Creation of, and Connection with Community

A sense of (virtual) community, as described by Blanchard and Markus,[57] has been shown to increase altruism and instill feelings of loyalty and civic virtue amongst participants in a given area of interest or activity. Based on the exchange of support and establishment of shared emotional connections among members, in addition to self-governance mechanisms, SoVC inspires individuals to contribute their knowledge, time, and goods to a common cause.

As is manifest in the many arts organisations featured on the Case Studies wiki, notably Augensound, Artabase, ArtServis, Strayform, and 60Sox, as well as many institutional initiatives such as ABC Pool, the creation of, and connection with, communities of practice and interest is both facilitated by Creative Commons, and inspires continued expansion and protection of CC.

American author and academic David Bollier has documented the history of the Commons movement in *Viral Spiral: How the Commoners Built a Digital Republic of Their Own*, an entry for which has been contributed to the wiki.

Philosophy of FLOSS

Philosophies of the Free/*Libre* and Open Source Software (FLOSS) movements play a significant role in the adoption of CC licences in certain sectors, as outlined in detail in the disciplinary section that follows. Whilst this article employs FLOSS[58] as a term to denote liberally licensed software, it acknowledges the existence of two communities distinct in their focus on 'free' philosophy versus 'open' pragmatics – that of Free Software as espoused by the Free Software Foundation,[59] and Open Source as per the Open Source Initiative.[60] A revelatory history of the FLOSS communities can be found in Glyn Moody's *Rebel Code: Linux and the Open Source Revolution*.[61]

Commons Connectors

Key connectors into the Commons are most notably, and not unexpectedly, Lawrence Lessig

and Cory Doctorow, with their writings and presentations introducing creators to its ideas and ideals.[62] Secondly, the Flickr photo-sharing platform has played a significant part in the introduction of many users to CC, given the CC licence generator's inclusion in the image upload process.[63] Professional and personal connections continue to count in influencing users to license under CC.[64]

Disciplinary Analysis

The following discipline areas mirror those found in *Building an Australasian Commons*, with the addition of wikis, interactive resources, and FLOSS.

New Ways of Doing Music Business: Creative Commons & Sound

Title	Licence	Details
Breittpott Bar	Various.	Germany. Licensing conditions vary according to artist preference & individual arrangements with netlabels and platforms.
Jamendo	Various 3.0 Unported, Licence Art Libre 1.3, CC NC SP, CC SP	France/Global.
Radiohead and Google *House of Cards Project*	CC BY-NC-SA 3.0 Unported	United Kingdom. Applicable to data.
Halway, Pleased (Curt Smith)	CC BY-NC-SA 3.0 Unported	United Kingdom.
Monk Turner	CC BY-NC-ND 3.0 United States	United States. Available via Internet Archive.

The music industry continues to provide an informative and exemplary study of innovative open business models. Following the widely acknowledged success of Nine Inch Nails' independent release of *Ghosts I-IV* and *The Slip* under CC,[65] many musicians, both established and emerging, have adopted OCL for their works.

On 26 June 2008, the ccSalon Los Angeles played host to two important musicians: Curt Smith,[66] solo artist and co-founder of Tears for Fears, and Monk Turner,[67] an LA-based multi-instrumentalist, who spoke of their motivations to use Creative Commons licences, and how adopting CC has a promotional, ethical, and artistic impact beyond traditional copyright.[68]

Curt Smith released his semi-autobiographical album Halfway, Pleased[69] in 2008 under CC BY-NC-SA 3.0 United States, observing the following:

> 'Nothing would make me happier than for my music to be heard by as many people as possible. If people like the album and its songs enough to put it on their website or share it with their friends, that's fantastic.'

In August 2009, Smith provided further insights into his inspirations in an interview with CC's Creative Director Eric Steuer for *GOOD* Magazine on the (musical) value of sharing:[70]

> 'I don't primarily make music just for me, I want it to be listened to by other people, I want people to take it apart, I want people to delve into it and get the different textures and different meanings of lyrics.'

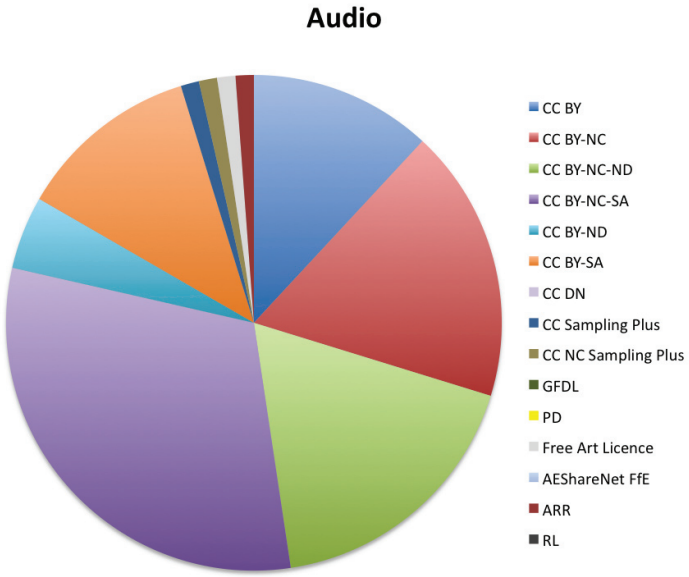
Exploring alternative forms of distribution with their seventh studio album In Rainbows, British band Radiohead released the data underlying the 'House of Cards' film clip via Google Code.[71] Nearly 400MB of 3D animation data[72] is licensed under CC BY-NC-SA 3.0 United States. In addition to derivative data visualisations shared on the 'House of Cards' YouTube group,[73] this resulted in lead singer Thom Yorke's head being sculpted into a 3D model at Thingiverse.[74]

Jamendo's[75] catalogue continues to expand, reaching 20,000 albums on 25 May 2009, having achieved 10,000 albums only 11 months previously.[76] In June 2010, the site featured over 35,000 CC-licensed albums from over 18,000 artists – a significant increase. In February 2009, the site launched Jamendo PRO,[77] offering commercial portals for background music, public events, audiovisual works, and websites and blogs.[78]

Licence	7-Nov-07	21-May-08	28-Jun-10	7-Nov-07	21-May-08	28-Jun-10
CC BY	98	196	1321	1.8%	2.1%	3.8%
CC BY-NC	45	70	362	0.8%	0.8%	1.0%
CC BY-NC-ND	1365	2121	7241	25.1%	23.0%	20.9%
CC BY-NC-SA	2694	4902	18013	49.6%	53.1%	52.0%
CC BY-ND	87	167	833	1.6%	1.8%	2.4%
CC BY-SA	498	1163	6320	9.2%	12.6%	18.3%
CC Sampling Plus	0	129	115	0.0%	1.4%	0.3%
CC NC-Sampling Plus	419	262	217	7.7%	2.8%	0.6%
Free Art Licence	229	222	192	4.2%	2.4%	0.6%
Total	**5435**	**9232**	**34614**	**100%**	**100%**	**100%**

Berlin's Breipott Bar[79] promotes openly-licensed music curated by musicians, DJs, and event organisers, with tracks almost exclusively licensed under CC. Patrons equipped with USB sticks download tracks directly from three on-site terminals. According to the bar's managers, music rights are meticulously checked with GEMA,[80] and other commercial collecting societies before being entered into Breipott's database, soundPott. The bar collaborates with numerous netlabels and scours online offers and demos to discover new music.

Summary of licence use in sector



Licence	Number	Percentage
CC BY	10	11.9%
CC BY-NC	15	17.9%
CC BY-NC-ND	15	17.9%
CC BY-NC-SA	26	31.0%
CC BY-ND	4	4.8%
CC BY-SA	10	11.9%
CC DN	0	0.0%
CC Sampling Plus	1	1.2%
CC NC Sampling Plus	1	1.2%
GFDL	0	0.0%
PD	0	0.0%
Free Art Licence	1	1.2%
AEShareNet FfE	0	0.0%
ARR	1	1.2%
RL	0	0.0%
Total	**84**	**100%**

- The creators of audio content clearly favour NonCommercial licensing, with 68% of entries retaining the right to exploit their work commercially.
- Jamendo follows this trend, with 52% of albums being licensed CC BY-NC-SA, and a further 20.9% under CC BY-NC-ND, as of 28 June 2010.
- Attribution-only licenses are adopted in 11.9% of cases overall, with Jamendo users being 3.8%.

Instilling Indigenous Points of View: Creative Commons & Democratic Change

Title	Licence	Details
Global Lives Project (GLP)	CC BY-NC-SA 3.0 Unported	Global.
Malaysian Artistes for Unity (Pete Teo)	Video: CC BY-NC-ND 3.0 Unported Music stems: CC BY-NC-SA 3.0 Unported	2008. Malaysia.
A Map of Our Own: Kwun Tong Culture and Histories	Various 3.0 Hong Kong licences.	2009 – . Hong Kong.
Pacific Media Centre (PMC), TE AMOKURA	CC BY-NC-ND 3.0 New Zealand	New Zealand.
Remixing Çatalhöyük	CC BY-NC 3.0 Unported	Turkey/United States.
Sarawak Gone (Andrew Garton)	CC BY 2.5 Australia	2009. Sarawak, Malaysia/ Australia.
Unleashed Tongue (*Razvezani jezik*)	CC BY-SA 3.0 Unported	Slovenia.

The following case studies underscore important initiatives to encourage awareness, realisation and protection of rights for Indigenous peoples, and preservation of local perspectives. Through both contemporary and historic lenses, emphasis is placed on celebration and retention of local customs, culture and tradition, whilst reinforcing unity in diversity.

A Map of Our Own: Kwun Tong Culture and Histories[81] is a multimedia website supporting discussions of urban identity and renewal in Kwun Tong, a town in East Kowloon, Hong Kong. Launched in 2009, the project aims to raise awareness of the impact of Hong Kong's largest urban renewal process planned for Kwun Tong town centre, over its projected 12 years of operation. *A Map of Our Own* is based on the ideals of the participatory web, with users encouraged to contribute images, sounds, and impressions of the local area to explore its identity and stimulate discussion.

All six localised CC Hong Kong licences are available for contributors to the site. At the start of the project, in July 2009, usage statistics showed:

Licence	Percentage
CC BY 3.0 Hong Kong	0%
CC BY-NC 3.0 Hong Kong	1%
CC BY-NC-ND 3.0 Hong Kong	64%
CC BY-NC-SA 3.0 Hong Kong	12%
CC BY-ND 3.0 Hong Kong	12%
CC BY-SA 3.0 Hong Kong	11%
Total	**100.00%**

Notably, NonCommercial and NoDerivatives licences are the most popular with the site's contributors at this initial stage of development.

The Global Lives Project (GLP)[82] aims to document the daily activities, aspirations, and realities of ten individuals who represent the diversity of the world's population as closely as possible.[83] Captured over the course of 24 hours, video footage shows the lives of people across the globe without commentary or imposed narrative, inviting viewers to reflect on their own experiences.

GLP footage is released under CC BY-NC-SA 3.0 Unported. After significant debate, this licence was chosen to protect the moral rights of interviewees through its NonCommercial clause, whilst retaining the right of distribution and remix.

In 2008, Malaysian Artistes for Unity[84] formed in Kuala Lumpur to record 'Here in My Home,' an anti-racist, unity song which was intentionally both non-profit and non-partisan. Initiated by Pete Teo, a Malaysian musician and actor, the project attracted the collaboration of 120 'artistes,' including both high-profile and indie musicians, dancers, filmmakers, arts curators, actors, poets, painters, art students, models, entrepreneurs and more. The video received an overwhelming response from across the globe, with the project's supporters now including record labels, advertisers, businesses, and broadcasters.

CC licensing was integral to the project's success, allowing free distribution of the video across many sites, under CC BY-NC-ND 3.0 Unported. Music stems were made available for remix under CC BY-NC-SA 3.0 Unported. Several derivative works are now published on YouTube. The project has also inspired spin-offs such as the Digital Malaya UNITY Project.[85]

The Pacific Media Centre (PMC), TE AMOKURA,[86] was established by Auckland University of Technology in 2007 to bring greater representation to Māori, Pasifika, and ethnic issues in academic research. PMC believes that by encouraging informed journalism and rigorous research, the Centre contributes to strong economic, political, and social development of the region, better representation, and improved accountability in reportage.[87] PMC uses CC BY-NC-ND 3.0 New Zealand licences for its works, underscoring its belief in improved access to information.

Remixing Çatalhöyük[88] represents a collaboration of Berkeley Archaeologists at Çatalhöyük (BACH) with Berkeley students and staff examining the 9,000-year-old settlement of Çatalhöyük, in central Turkey. Offering themed collections including 'Life Histories of People, Places and Things,' and 'Senses of Place,' the project seeks to 'support a multi-vocal approach to history, where the global, online community is invited to participate in the dialogue alongside the physical, local community.'[89] Research materials are offered under CC BY-NC 3.0 Unported to keep the research data alive, and foster public engagement by creating different contexts and meanings.

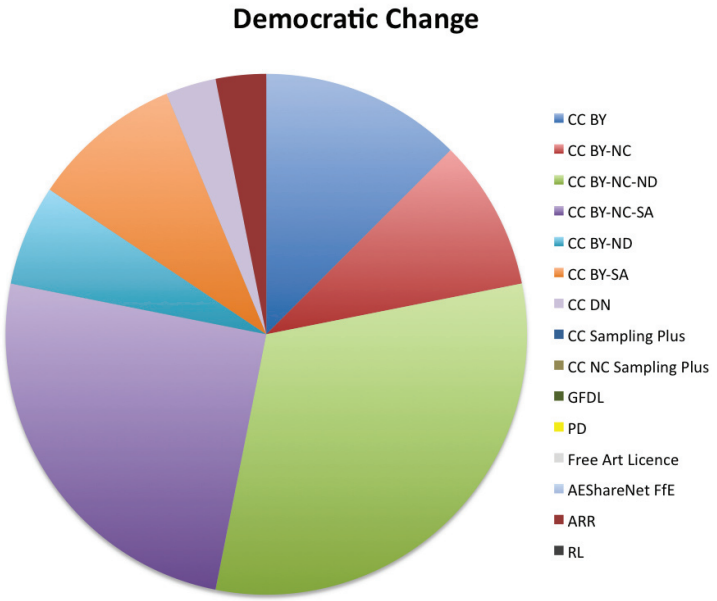
Sarawak Gone[90] is a micro-documentary project directed by Andrew Garton[91] in 2009 to draw attention to the indigenous Bidayuh communities of Sarawak, Malaysia, who are increasingly threatened by the construction of dams, logging, and palm oil plantations. Publishing a series of five-to-ten minute documentaries on EngageMedia[92] in February 2010, Garton shows the precarious nature of the communities and the state of the biomass in the face of these construction projects. These documentaries have been produced in collaboration with

Rengah Sarawak[93] to raise awareness and support for the traditional peoples of the four remote Bidayuh communities[94] living within an hour of Kuching, Sarawak's capital.

A strong supporter of CC, Garton has licensed these micro-documentaries and post-production scripts[95] under CC BY 2.5 Australia, to tell the stories of the Bidayuh people through multiple media reaching the widest possible audience.

Unleashed Tongue (Razvezani jezik)[96] is the first free online dictionary of the Slovene spoken language. Published online in December 2004 in wiki format, and printed in hard copy in 2007, the dictionary preserves a different perspective of the Slovene language – with common catchphrases, clichés, and neologisms, in addition to more obscure terms. In the tradition of 'reclaim the streets,' the dictionary's producer seeks to 'reclaim the language.' CC licensing ensures equal access and ongoing use of the material for all. As with other wiki projects, the dictionary is licensed CC BY-SA 3.0.

Summary of licence use in sector



Licence	Number	Percentage
CC BY	4	12.5%
CC BY-NC	3	9.4%
CC BY-NC-ND	10	31.3%
CC BY-NC-SA	8	25.0%
CC BY-ND	2	6.3%
CC BY-SA	3	9.4%
CC DN	1	3.1%
CC Sampling Plus	0	0.0%
CC NC Sampling Plus	0	0.0%
GFDL	0	0.0%
PD	0	0.0%

Free Art Licence	0	0.0%
AEShareNet FfE	0	0.0%
ARR	1	3.1%
RL	0	0.0%
Total	**32**	**100%**

- The preferred licence for entries documenting democratic projects is CC BY-NC-ND at 31.3%, with the second most favoured being CC BY-NC-SA at 25%. CC's NonCommercial clause is perceived to protect the personality rights of individuals featured in documentary projects.[97]

Freeing Footage for All: Creative Commons and Open Source Cinema

Title + Director	Licence	Details
A Swarm of Angels (Matt Hanson)	CC BY-NC-SA 2.5 Generic	*In production*. UK/Global.
Big Buck Bunny (Sacha Goedegebure)	CC BY 3.0 Unported	2008. Netherlands. 10 mins.
El Cosmonauta, The Cosmonaut (Nicolás Alcalá)	CC BY-SA 3.0 United States	*In production*. Spain/Global.
Dozer. (Davor Radic)	CC BY 3.0 Unported	2009. Sweden. 73 mins 10.
Elephants Dream (Bassam Burdali)	CC BY 2.5 Generic, CC BY-NC-ND 2.5 Generic (soundtrack)	2006. Netherlands. 10 mins 54.
Hot for Profit (Joan Planas)	CC BY-NC-SA 3.0 Unported	2007. Spain + Nicaragua. 30 mins.
Nasty Old People (Hanna Sköld)	CC BY-NC-SA 2.5 Sweden	2009. Sweden. 83 mins.
Pentagon (Davor Radic)	CC BY 3.0 Unported	2008. Sweden. 50 mins 34
Preempting Dissent: Open Sourcing Secrecy (Infoscape Research Lab)	CC BY-NC 3.0 Unported	In production. Canada.
RiP!: A Remix Manifesto (Brett Gaylor)	CC BY-NC 3.0 Unported	2008. Canada. 86 mins 24.
Sita Sings the Blues (Nina Paley)	CC BY-SA 3.0 Unported	2008. United States. 82 minutes.
Valkaama (Tim Baumann)	CC BY-SA 3.0 Unported (film + source material), Various 3.0 (images + texts)	2008. Germany. 93 minutes.

Whilst open-source cinema project A Swarm of Angels,[98] addressed in *Building an Australasian Commons*, is currently on hiatus, its contribution to open cinema has been significant. In 2008, director Matt Hanson and team developed a classification system for open media, proposing the following three states, each building on the former and referencing a seven-point

scale:[99]

Open (O-)	The baseline, concerned with freely consuming and sharing the content (1-3).
Open Source (O)	Being able to view and remix the source files (1-5).
Open Plus (O+)	The ability to participate in a transparent, documented process (1-7).

Accordingly, open media is thus:

1. Freely accessible: Available to stream, or download without a fee. Should be available via direct download and P2P media, so it is not behind a gateway.
2. Freely available: Permanently available without DRM, or release windows. The end user able to share the work without restriction.
3. Freely viewable: Available in multiple formats, and to be converted freely (in the case of video works, for example, as dvd, xvid/divx, mp4, and HD formats).
   The above qualities are essential for open content. Open source content adds to the cultural commons by making creation of new content from the work.
4. Giving source files: Source media, such as rushes and raw graphics files should be archived and available for other creators to work with.
5. Allowing remixing: Materials should be licensed explicitly to allow derivative work (eg. other works based on the script, or video mashups, and remix edits) for at least non-commercial/artistic purposes. Creative Commons and other licenses are available for flexible copyrighting.
   Open Plus adds more opportunities for participation and involvement in the work whether as a creator, or as part of what used to be called 'the audience'.
6. Reveal the process: Allowing access to not only the final source media, but work-in-progress material and software files, adding another layer of transparency and documentation.
7. Open contribution: Adding ways to influence and participate in the creation of the original work through various types of community/audience involvement (opportunities such as open crewing, direct feedback or contribution mechanisms).

The CC Case Studies wiki hosts a number of open-source cinema projects, of varying complexions according to this scale. The following provides a brief précis of the current offerings.

El Cosmonauta ('The Cosmonaut')[100] is a science-fiction feature being produced by Spanish Riot Cinema Collective. Inspired by ***A Swarm of Angels*** and ***Artemis Eternal***,[101] the film is both co-created and crowdfunded. Riot Cinema offers two methods of collaboration: 'producer,' for €2, or 'investor,' for €1000, the latter receiving a percentage of the film's profits. As of 1 July 2010, *El Cosmonauta* had 2178 contributors. The film is licensed CC BY-SA 3.0 to enable derivative works and remixes, with the best rewarded by prizes.

The Hill Productions[102] is a Swedish independent film company specialising in low-budget, DIY films. Subscribing to a sharing culture, the company employs CC BY 3.0 Unported for its films, made available via ClearBits and Internet Archive. Current releases include ***Dozer.***, an experimental exploration of technology and filmmaking, and ***Pentagon***, a mobile-phone film

shot with a SonyEricsson k880i, both directed by Davor Radic.

'Change your attitude and you'll change the world' entreats Joan Planas, director of ***Hot for Profit***.[103] Set in Barcelona and Nicaragua, this documentary contextualises poverty in the First and Third Worlds:

- Every 24 hours 25,000 people die of hunger.
- 1000 million people live on less than 1 dollar per day.
- Wars and violence kill 900,000 humans each year.
  Why?

The director examines the role played by NGOs, the media, education, politics, and religion in achieving the United Nations' Millennium Development Goals. *Hot for Profit* is licensed under a CC BY-NC-SA 3.0 Unported licence.

Nasty Old People[104] is a feature film by Swedish director Hanna Sköld, unique in having premiered on The Pirate Bay on 10 October 2009 under a CC BY-NC-SA 2.5 Sweden licence. Its distribution largely relying on BitTorrent, the film has screened at more than 20 film festivals, with users submitting subtitles in numerous European languages. The project commenced with a loan of €10,000, and has earned the director a significant reputational gain:

> 'Nasty Old People becomes marketing and a promotion for Hanna Skold. It has to be better resume filler for a filmmaker to talk about tens of thousands of people downloading and watching your film than just going in cold saying you want to make a film.' – TechDirt[105]

Canadian filmographer Brett Gaylor launched the Open Source Cinema Project[106] in 2007 to encourage collaborative filmmaking. In production is *Preempting Dissent – Open Sourcing Secrecy,*[107] based on the eponymous book by Greg Elmer and Andy Opel. Coordinated through a 'road map,' the film incorporates submissions, testimonials and mashups from Open Source Cinema participants. As with other OSC projects, it is licensed CC BY-NC 3.0 Unported.

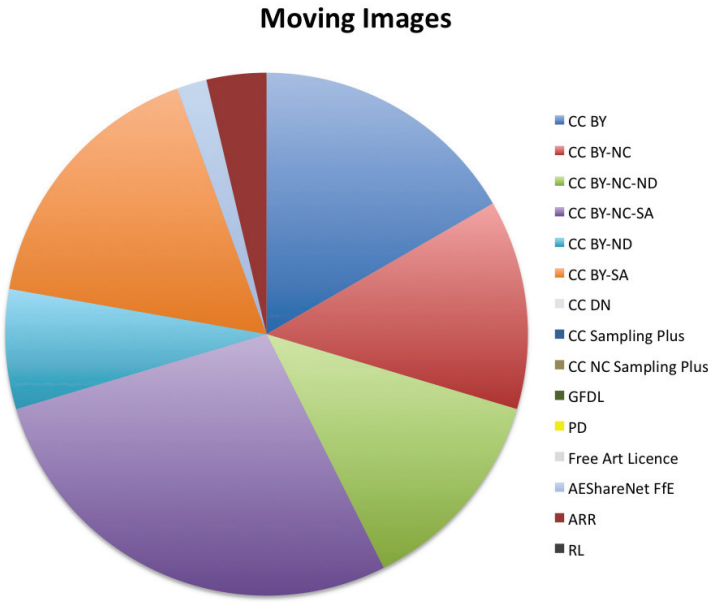
Award-winning documentary RiP!: A Remix Manifesto,[108] directed by Gaylor, examines the legality of remix culture in the digital age. Featuring performance artist Girl Talk (Gregg Gillis), CC Founder Lawrence Lessig and Cory Doctorow, the film explores how culture builds on the past. Licensed under CC BY-NC 3.0 Unported, the work welcomes remixes as *RiP!: A Remix Manifesto 2.0*.[109]

Receiving critical acclaim from the *New York Times*[110] and Roger Ebert[111] and popular acclaim from international audiences, Nina Paley's *Sita Sings the Blues*[112] is a feature-length animation whose licensing and distribution is inspired by the free software movement. Licensed using the 'copyleft' CC BY-SA 3.0 and distributed for free, *Sita Sings the Blues* is supported by sales of merchandise and DVDs. Paley explains her philosophy thus:

> 'Dear Audience,
> I hereby give *Sita Sings the Blues* to you. Like all culture, it belongs to you already, but I am making it explicit with a Creative Commons Attribution-Share Alike License. Please distribute, copy, share, archive, and show *Sita Sings the Blues*. From the shared culture it came, and back into the shared culture it goes.'

Valkaama[113] is a collaborative open-source cinema project offering all source material (film, photos, text) for re-/use via CC 3.0 licences. Director Tim Baumann has called for public participation in the post-production process, allowing remixes and other editorial interventions. Licence conditions currently vary per contributor; however, the film's source material is offered under CC BY-SA 3.0 Unported. Discussion of the NonCommercial restriction is ongoing.

Summary of licence use in sector



Licence	Number	Percentage
CC BY	9	16.7%
CC BY-NC	7	13.0%
CC BY-NC-ND	7	13.0%
CC BY-NC-SA	15	27.8%
CC BY-ND	4	7.4%
CC BY-SA	9	16.7%
CC DN	0	0.0%
CC Sampling Plus	0	0.0%
CC NC Sampling Plus	0	0.0%
GFDL	0	0.0%
PD	0	0.0%
Free Art Licence	0	0.0%
AEShareNet FfE	1	1.9%
ARR	2	3.7%
RL	0	0.0%
Total	**54**	**100%**

- For films, a strong preference is shown for CC BY-NC-SA (27.8%), with the ShareAlike attribute accounting for almost half of all releases (44.5%).
- Choice of other CC licences is fairly evenly spread.

Exhibition Open!: Creative Commons & Visual Arts

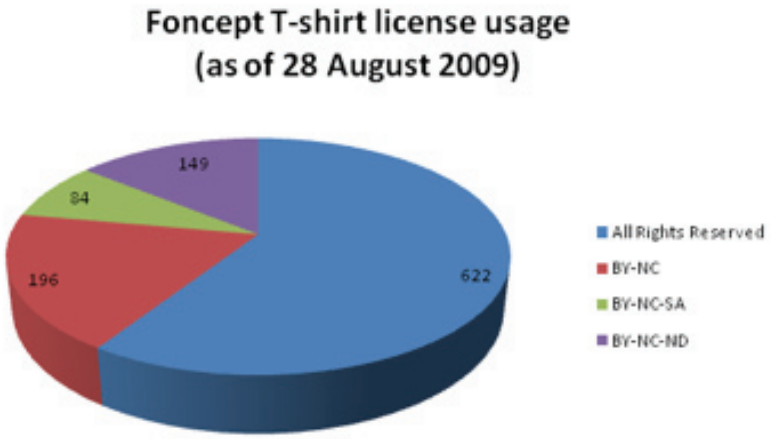
Title	Licence	Details
Crescat Graffiti, Vita Excolatur (Quinn Dombrowski)	CC BY-SA 2.0 Generic	United States.
Foncept	Various 3.0 Hong Kong licences	Hong Kong.
Pamoyo	CC BY-SA 2.0 Germany	Germany.
SomeRightsReserved	Various 3.0 Unported	United Kingdom.

Fashion & 3D Design

In 'Lessons from Fashion's Free Culture,'[114] a **TEDTalk** recorded at TEDxUSC in April 2010, Johanna Blakley examines creativity and ownership in the fashion industry, where strong IP protection does not exist owing to the 'utility' of wearable goods. Blakley asks what kind of ownership model will lead to the greatest innovation in the digital world.[115]

The CC Case Studies wiki contains two entries pertaining to fashion: Foncept and Pamoyo. Foncept[116] is a t-shirt design community based in Hong Kong, established with the objective of helping local designers to share their designs, whilst increasing consumer awareness of fashion's potential. Through fortnightly design contests, Foncept's users are able to vote for their favourite shirts, with winning designs printed for sale and associated revenue distributed to designers.[117]

Foncept's designers show a preference for CC NonCommercial licensing, allowing reuse and redistribution of designs without commercial implications. As reported in the Case Studies wiki, as of 28 August 2009, the site's licence distribution was as follows:



From the total pool of 1051 submissions:

Licence	28-Aug-09	Percentage
All Rights Reserved	622	59

CC BY-NC	196	19
CC BY-NC-ND	149	14
CC BY-NC-SA	84	8
Total	**1051**	**100**

Pamoyo[118] markets itself as 'green open-source fashion.' Based in Berlin, the enterprise seeks to foster ecological production and fair-trade fashion by publishing designs under the localised CC BY-SA 2.0 Germany licence.

SomeRightsReserved,[119] established by the UK collective KithKin, sells digital blueprints for a diverse series of products and prototypes, ranging from a 'Street Sofa' to ready-to-sew mittens. SomeRightsReserved aims to connect designer straight to consumer, making transactions more transparent and empowering. Of the site's 30 current products, 26 adopt a CC licence, with BY-NC-ND being most favoured. Operating under the slogan 'A Download Revolution' in reference to a sharing culture, the site offers nine products for free, whilst the rest are affordably priced from £1 to £10.

Flickr Collections

On 21 March 2009, Yahoo!'s photo-sharing site Flickr.com reached 100 million CC-licensed photographs.[120] Analysing data made available via the CC statistics site,[121] Christian from metawelle.net identified users' preferences in licence choice,[122] finding that photographers preferred NonCommercial licences, and 'the bulk of photos are licensed rather restrictively.'

Licence	17-Mar-06	25-Feb-10	28-Jun-10	17-Mar-06	25-Feb-10	28-Jun-10
CC BY	1,085,582	17,961,963	19,665,338	10.77%	13.24%	13.90%
CC BY-NC	1,468,755	18,660,010	19,109,533	14.57%	13.76%	13.50%
CC BY-NC-ND	3,241,697	41,621,048	43,367,060	32.15%	30.68%	30.65%
CC BY-NC-SA	3,169,502	39,507,645	40,357,933	31.43%	29.12%	28.52%
CC BY-ND	317,345	6,137,718	6,618,187	3.15%	4.52%	4.68%
CC BY-SA	801,211	11,761,829	12,389,558	7.95%	8.67%	8.76%
Total	**10,084,092**	**135,650,213**	**141,507,609**	**100%**	**100%**	**100%**

Ongoing analysis of Flickr contributions is currently being undertaken by Commons researchers to identify longitudinal trends in OCL.

Crescat Graffiti, Vita Excolatur[123] is a photographic project by Quinn Dombrowski to document graffiti in the University of Chicago's Regenstein Library. The collection, hosted on Flickr.com,[124] contains over 1000 images, classified according to themes such as 'math,' 'logic,' and 'intellectual commentary.' Licensed under CC BY-SA 2.0 Generic, *Crescat Graffiti* images are regularly used on blogs. In November 2009, Quinn published *Crescat Graffiti, Vita Excolatur:*

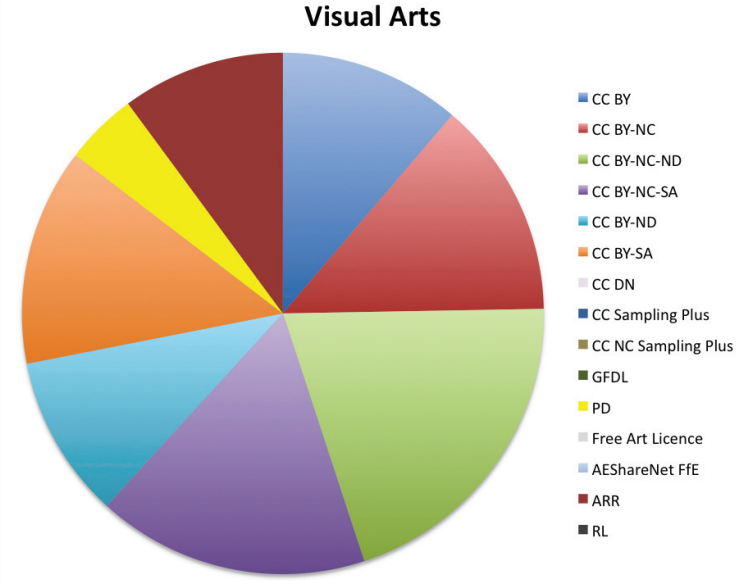
Confessions of the University of Chicago. The blog accompanying the project[125] is licensed CC BY-NC-SA 3.0 Unported.

'I see beauty everywhere, and I want others to see it too.' – Quinn Dombrowski

Quinn Dombrowski's Flickr collection[126] currently contains over 44,800 photographs licensed under CC BY-SA 2.0 Generic. With topics including the 2008 United States Presidential election, Quinn's photos have been used by the BCC, *Wall Street Journal*, and *Boing Boing*.

A further use of Flickr photos can be seen in **Orchestration**, a performance piece by Guy Yedwab at New York University. Guy projected CC-licensed Flickr photos as the backdrop to choreography, enjoying the ability to use the images legally.

Summary of licence use in sector



Licence	Number	Percentage
CC BY	10	11.2%
CC BY-NC	12	13.5%
CC BY-NC-ND	18	20.2%
CC BY-NC-SA	15	16.9%
CC BY-ND	9	10.1%
CC BY-SA	12	13.5%
CC DN	0	0.0%
CC Sampling Plus	0	0.0%
CC NC Sampling Plus	0	0.0%
GFDL	0	0.0%
PD	4	4.5%
Free Art Licence	0	0.0%
AEShareNet FfE	0	0.0%
ARR	9	10.1%

RL	0	0.0%
Total	**89**	**100%**

- With regard to fashion, Foncept demonstrates designers' preference for NonCommercial licensing, at 41% of total designs versus 59% for traditional copyright.
- Longitudinal statistics from Flickr.com also show photographers' preference for NonCommercial licensing, with 72.67% opting for the NC term in June 2010. There is a slight trend towards greater openness, with 3.13% more images being licensed under CC BY in June 2010 than March 2006.
- On average, the sector demonstrates just over half of licensors (50.6%) employ NC licensing, and 30.3% use the ND clause.

Archives Alive!: Creative Commons, Cultural & Governmental Institutions

Title	Licence	Details
ABC Pool (Australian Broadcasting Corporation)	Various 2.5 Australia licences, including ARR.	Australia.
Flickr Commons	PD: 'No known copyright'	Global.
New Zealand Electronic Text Centre	CC BY-SA 3.0 New Zealand	New Zealand.

A significant development for governmental and cultural institutions since Building an Australasian Commons has been the ongoing adoption and consolidation of the Flickr Commons.[127] Launched on 16 January 2008 with a pilot project from the Library of Congress, and with the Powerhouse Museum, Sydney[128] being its first Museum adopter, as noted in Case Studies vol. 1, the Commons on Flickr has two primary objectives: to increase access to publicly-held photography collections; and, to provide a way for the general public to contribute information and knowledge.

Flickr Commons' growth is documented on Indicommons[129] and the Flickr Commons group,[130] created by Anna Graf in December 2008. The Commons presently comprises 45 institutional members[131] across the Galleries, Archives, Libraries and Museums sector, and is projected to double its collection over the course of 2010.[132]

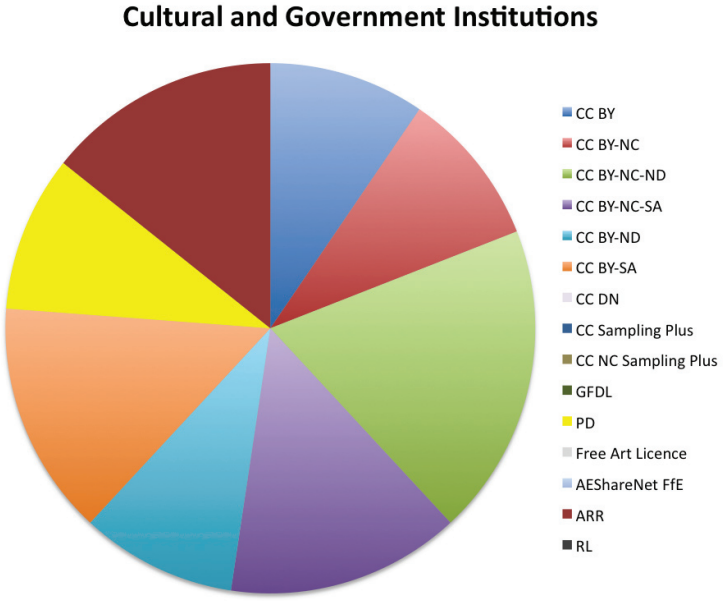
> 'The Commons represents our shared visual heritage. Our culture is enriched by the release of these historical photographs and further enriched by the public's participation in the collection and aggregation of related historical information.'[133]

On 2-3 October 2009, participating institutions held the inaugural 'Common Ground: A Community Curated Meetup,' an international celebration of the photographic collections contributed to the site to date. With Flickr users voting for the images to be included in the event (by 'favoriting' their chosen photos), the event was billed as the world's first crowd-sourced curation of publicly-held archives. Common Ground came to life as a connected slideshow projected against the participating institutions' buildings over the course of the event's two days.

The community also contributes to the ongoing design and development of ABC Pool,[134] a social media site hosted by the Australian Broadcasting Corporation to feature creative, collaborative works alongside archival footage released by the broadcaster. Recipient of the Australian Government 2.0 Taskforce Innovators' award[135] in November 2009, and the ABC Innovation Blue Sky award[136] in February 2008, ABC Pool features several projects[137] focusing on history, community, and remix cultures. One such project is 'Gene Pool,'[138] established to celebrate the bicentennial of Charles Darwin's birth via the release of ABC archival materials on the theme of evolution and mutation. With recordings released under CC BY-NC 2.5 Australia to encourage remixing, Gene Pool culminated in a public exhibition of user contributions at Melbourne's RMIT on the 150th anniversary of the publication of Darwin's *The Origin of Species*.[139]

A further initiative to make archives accessible, the New Zealand Electronic Text Centre (NZETC),[140] established in 2002 at Victoria University of Wellington Library, seeks to create a digital library to preserve access to significant digitised heritage material and born-digital resources of Aotearoa New Zealand and the Pacific Islands. The current collection of 2,600 texts is delivered through an open source, standards-based framework, offering free and full access to multiple formats for download and online browsing.

Summary of licence use in sector



Licence	Number	Percentage
CC BY	2	9.5%
CC BY-NC	2	9.5%
CC BY-NC-ND	4	19.0%
CC BY-NC-SA	3	14.3%
CC BY-ND	2	9.5%
CC BY-SA	3	14.3%
CC DN	0	0.0%
CC Sampling Plus	0	0.0%

CC NC Sampling Plus	0	0.0%
GFDL	0	0.0%
PD	2	9.5%
Free Art Licence	0	0.0%
AEShareNet FfE	0	0.0%
ARR	3	14.3%
RL	0	0.0%
Total	**21**	**100%**

- In projects such as ABC Pool and Picture Australia, institutions allow contributors to choose which licence suits their needs, but express a preference to allow remixing.
- Flickr Commons is a project drawing on cultural institutions' heritage materials, licensed 'no known copyright,' encouraging viewers to annotate and update collections.

Government 2.0 & Access to Public Sector Information (PSI)

Title	Licence	Details
App My State	CC BY 2.5 Australia	Victorian Government, Australia.
Australian Bureau of Statistics (ABS)	CC BY 2.5 Australia	Australia.
Cheong Wa Dae	CC BY-NC-ND 2.0 Korea	Republic of Korea.
Government Information Licensing Framework (GILF)	CC BY 2.5 Australia (default), CC 2.5 Australia suite, Restrictive Licence.	Queensland Government, Australia.
Mosman Municipal Council	CC BY-NC 2.5 Australia	Sydney, Australia.
New York State Senate	CC BY-NC-ND 3.0 United States, CC BY 3.0 United States (third-party content), CC+ (excluding political fundraising)	New York State, United States of America.
Whitehouse.gov	CC BY 3.0 United States (third-party content)	United States of America.

On 18 June 2008, the OECD Ministerial *Seoul Declaration for the Future of the Internet Economy* was endorsed,[141] establishing a widely acknowledged framework for the provision of access to, and re-use of Public Sector Information (PSI), including scientific data and works of cultural heritage. Foundation principles underpinning 'Government 2.0' continue to be discussed internationally,[142] and efforts to provision Tim Berners-Lee's 'linked data'[143] documented on the Open Knowledge Foundation blog,[144] amongst others. CC Australia project lead Professor Brian Fitzgerald chronicles these developments in *Access to Public Sector Information: Law, Technology & Policy*, a newly launched two-volume publication detailing the global shift in the way PSI is published and produced.[145]

In the United States, the Obama-Biden Administration affirmed its commitment to open government upon taking office, declaring that government should be transparent, participatory, and collaborative.[146] The licensing of third-party materials on the Whitehouse.gov domain under CC BY 3.0 United States underscores the pivotal role of CC in Government 2.0.

In June 2009, the New York State Senate[147] released photographic and textual content housed on its site under CC BY-NC-ND 3.0 United States, with third-party materials licensed CC BY 3.0 United States. In a novel step, the Senate endorsed use of the CC+ protocol in all circumstances except political advertising.

Cheong Wa Dae,[148] the Republic of Korea's Presidential website, has released PSI materials including national parliamentary bills under CC BY-NC-ND 2.0 Korea. In a similar move, the Australian Parliament announced the migration of its central website[149] across to CC BY-NC-ND 3.0 Australia on 7 June 2010, the first known adopter of Australia's new licence version.

Australia's Government 2.0 Taskforce[150] was convened in June 2009 to consider guiding PSI principles and practices.[151]

As part of its consultation, the Taskforce called for innovative implementations of PSI in Australia. Responding to the call, Mosman Municipal Council, the local government administration for the north shores of Sydney, utilised CC and social networking as part of its Community Engagement Strategy (CES),[152] licensing the CES under CC BY-NC 2.5 Australia. In November 2009, Mosman's Council was named the Small Agency Innovator by Australia's Government 2.0 Taskforce.[153]

The Government 2.0 Taskforce's final report, *Engage: Getting on with Government 2.0*,[154] was handed down on 22 December 2009, with recommendations that PSI be made open, accessible, and reusable, and moreover that:

> 'Consistent with the need for free and open reuse and adaptation, PSI released should be licensed under the Creative Commons BY standard as the default.'[155]

Use of restrictive licensing arrangements would be reserved for special circumstances only. This is the approach adopted by Queensland's Government Information Licensing Framework (GILF),[156] detailed in *Building an Australasian Commons*, and endorsed as Queensland Government policy in March 2010.[157]

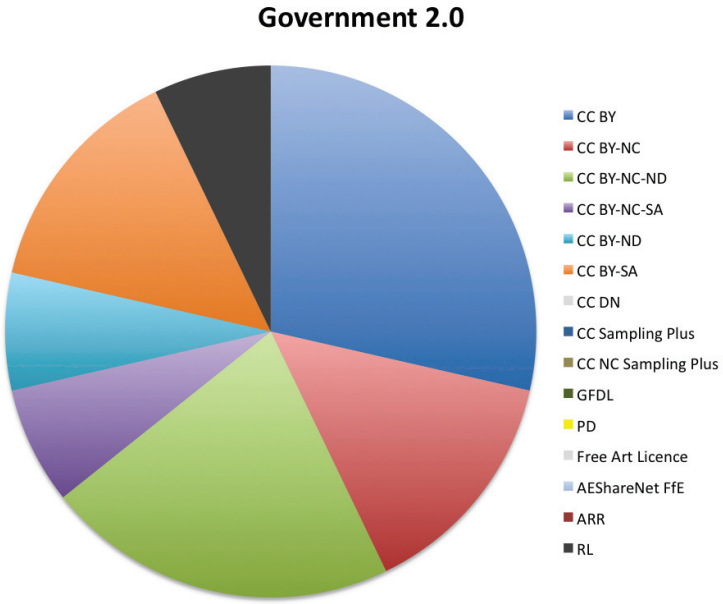
Significant examples of Australian public sector adoption of CC include the Australian Bureau of Statistics (ABS),[158] with its release of Australia's national census data on 18 December 2008 under CC BY 2.5 Australia. In November 2009, Australia's Bureau of Meteorology (BoM) Improving Water Information Program,[159] recommended that data suppliers implement CC BY 2.5 for all data supplied under the *Water Regulations 2008*. Geoscience Australia[160] officially adopted the CC BY 2.5 Australia licence for its website in December 2009, releasing more than 18,800 products and 3,690 datasets for reuse.[161]

On the State level, Victorian Parliament's Economic Development and Infrastructure Committee (EDIC) Report, *Improving Access to Victorian Public Sector Information and Data*[162] was tabled on 24 June 2009, endorsing open access as the default position for the management of the State's PSI, and that the CC licensing model be applied to its Information Management Framework.[163] The Victorian Government's response to EDIC[164] endorsed these recommendations

in February 2010.

App My State[165] is a competition initiated by the Victorian Government to build mobile and web applications for the benefit of the State's citizens. This coincides with the release of PSI datasets through a central online repository.[166]

Summary of licence use in sector



Licence	Number	Percentage
CC BY	4	28.6%
CC BY-NC	2	14.3%
CC BY-NC-ND	3	21.4%
CC BY-NC-SA	1	7.1%
CC BY-ND	1	7.1%
CC BY-SA	2	14.3%
CC DN	0	0.0%
CC Sampling Plus	0	0.0%
CC NC Sampling Plus	0	0.0%
GFDL	0	0.0%
PD	0	0.0%
Free Art Licence	0	0.0%
AEShareNet FfE	0	0.0%
ARR	0	0.0%
RL	1	7.1%
Total	**14**	**100.0%**

- The most popular licence for the release of PSI is CC BY, at 28.6%.
- Government websites, such as Cheong Wa Dae and New York State Senate, tend to be published under CC BY-NC-ND, as with Australia's Parliamentary site.
- The Restrictive Licence (RL) is offered by GILF to account for materials

inappropriate for public release, such as those with privacy concerns or containing confidential information.

Remix My Lit: Creative Commons and the Written Word

Title + Author	Licence	Details
Little Brother (Cory Doctorow)	CC BY-NC-SA 3.0 Unported	2008. United States. Tor Books.
PLATFORM: Journal of Media and Communication (School of Culture and Communication, University of Melbourne)	CC BY 2.5 Australia (default), CC 2.5 Australia licences	2009–. Australia University of Melbourne.
Through the Clock's Workings (ed. Amy Barker)	CC BY-NC-SA 2.5 Australia	2009. Australia. Sydney University Press.
Viral Spiral: How the Commoners Built a Digital Republic of Their Own (David Bollier)	CC BY-NC 3.0 Unported	2009. United States. The New Press.

Building an Australasian Commons: Case Studies vol. 1 featured the first Australian book to be published under CC, legal and technology blogs, and several journalistic endeavours. The following case studies represent fact and fiction, as a social history, an open-access academic journal, a novel, and remixable anthology. These publications join with Lawrence Lessig's Remix: Making Art and Commerce Thrive in the Hybrid Economy,[167] published by Bloomsbury Academic on 1 May 2009 under CC BY-NC 3.0 Unported, in being notable exemplars in open publishing.

Award-winning author and free culture advocate Cory Doctorow released ***Little Brother***,[168] his fifth novel, on 29 April 2008 under CC BY-NC-SA 3.0 Unported. Referencing the surveillance state and the War on Terror, *Little Brother* chronicles the life of w1n5t0n, a student hacker from San Francisco, apprehended by the Department of Homeland Security after a terrorist attack. The book, published by Tor, sits alongside Doctorow's other works in celebrating free culture and free speech.

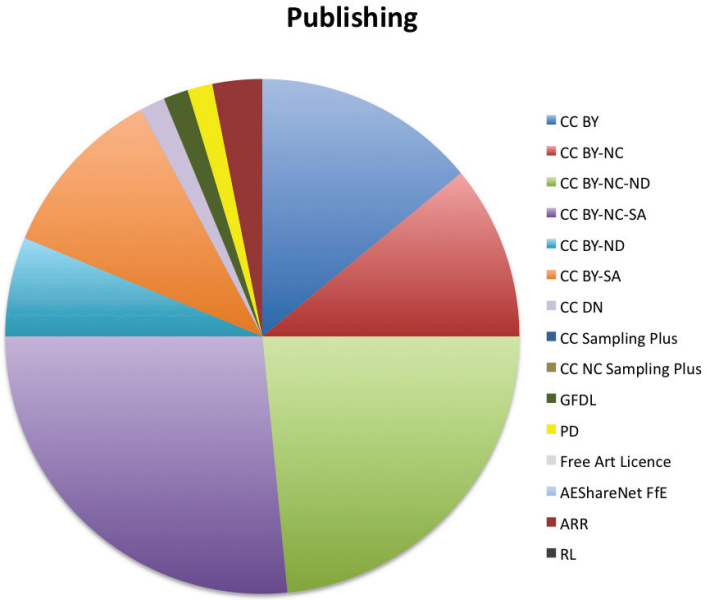
PLATFORM: Journal of Media and Communication[169] is a peer-reviewed open-access, online graduate journal published by the Media and Communications Program at the School of Culture and Communication, University of Melbourne. Submissions are received from Australian and international Honours, Masters and Doctoral candidates and refereed by an editorial board of emerging and established scholars. Contributions are encouraged under CC BY 2.5 Australia. Volume 1: *Mediated Mobilities: Negotiating Identities* released in July 2009 contained six submissions, three under the default CC BY 2.5 Australia licence; two under CC BY-NC 2.5 Australia; and one under CC BY-NC-SA 2.5. In July 2010, *PLATFORM* is further contributing to open access, open standards and free culture with 'Yes, We're Open!,' edited by Jessica Coates and Elliott Bledsoe from CC Australia.

Through the Clock's Workings[170] is a remixable and remixed anthology of short stories, edited by Australian author Amy Barker. Published by Sydney University Press and released

under CC BY-NC-SA 2.5 Australia in 2009, the work represents literature that is both 'read' and 'write.' It builds on nine original works by notable Australian writers including Cate Kennedy and Kim Wilkins, and offers 13 remixes, featuring poems and abridgements. The distinctive cover art was produced by Ali J, who featured prominently in the Visual Arts section of *Building An Australasian Commons*.

David Bollier, editor of onthecommons.org, author and policy strategist, published *Viral Spiral: How the Commoners Built a Digital Republic of Their Own*[171] in 2009 with The New Press, as a history of the 'free culture' movement and its free software antecedents. Documenting key moments in copyright activism, scholarship, technology and social innovation, Bollier examines new business models surrounding peer production, open science and education. *Viral Spiral* is released under a CC BY-NC 3.0 Unported licence.

Summary of licence use in sector



Licence	Number	Percentage
CC BY	9	14.1%
CC BY-NC	7	10.9%
CC BY-NC-ND	15	23.4%
CC BY-NC-SA	17	26.6%
CC BY-ND	4	6.3%
CC BY-SA	7	10.9%
CC DN	1	1.6%
CC Sampling Plus	0	0.0%
CC NC Sampling Plus	0	0.0%
GFDL	1	1.6%
PD	1	1.6%
Free Art Licence	0	0.0%
AEShareNet FfE	0	0.0%
ARR	2	3.1%

RL	0	0.0%
Total	**64**	**100.0%**

- Two licences are the most popular in publishing: CC BY-NC-SA (26.6%) and CC BY-NC-ND (23.4%). Authors such as Cory Doctorow have adopted the former, allowing non-commercial adaptations of their works.

Beyond the Classroom: Creative Commons & Open Educational Resources

Title	Licence	Details
CA Free Digital Textbook Initiative (California Learning Resource Network, CLRN)	Various CC licences	California, United States.
Flat World Knowledge	CC BY-NC-SA 3.0 Unported	United States.
Motion Mountain – The Free Physics Textbook (Christoph Schiller)	CC BY-NC-ND 3.0 Germany	Germany.
Pratham Books	CC BY 3.0 Unported, CC BY-SA 3.0 Unported	India.
Qedoc Interactive Educational Resources	Various, excluding ND	Global.
WikiPremed (John Wetzel)	CC BY-SA 3.0 Unported	United States.

Innovation and collaboration in education is central to CC, with a renewed focus placed on Open Educational Resources (OER) in January 2010.[172] Ensuring educational materials continue to be widely accessible, adaptable, interoperable and discoverable is of primary concern to CC, leading to implementation of its education 'landing page'[173] in April 2010.

Project priorities include reconsideration of social, media, and policy objectives, to allow continued development of OER case studies and interviews, 'highlighting the best and brightest implementations and implementers of CC for OER.' This is clearly an area in which the CC Case Studies wiki can expand its role, aiding the development of metrics for OER adoption, with a possible Wikimedia WikiProjects-inspired ratings system.[174]

Several instructive OER entries currently feature in the CC Case Studies wiki. These sit alongside core open education institutions featured on CC's landing page:

Title	Licence	Details
Bloomsbury Academic[175]	CC BY-NC 3.0 Unported	Selected texts. United States.
CK-12 Foundation[176]	CC BY-SA 3.0 Unported	United States.
Connexions[177]	CC BY 3.0 Unported	United States.
Curriki[178]	CC BY 3.0 Unported	United States.
MIT OpenCourseWare[179]	CC BY-NC-SA 3.0 United States	United States.

Peer 2 Peer University (P2PU)[180]	CC BY-SA 3.0 Unported	Global.

The California Free Digital Textbook Initiative[181] is the first free, open-source digital textbook project in the United States. Launched by Governor Schwarzenegger in June 2009,

> 'This first-in-the-nation initiative will reduce education costs, help encourage collaboration among school districts and help ensure every California student has access to a world-class education.' [182]

The Initiative's initial phase featured ten standards-aligned, open-source science and mathematics texts from the CK-12 Foundation, Curriki, and Connexions, amongst others.[183] The second phase, commenced in February 2010, received 17 history, social science and advanced mathematics texts; of the 15 reviewed, ten carried a CC BY-SA or CC BY licence, two GFDL, with one being in the public domain.[184]

Flat World Knowledge (FWK)[185] is a commercial textbook publisher in Irvington, New York, offering high quality, peer-reviewed higher education texts for free, online. All FWK texts, both in print and print-on-demand, are distributed under CC BY-NC-SA 3.0 Unported. The business's rationale for CC is thus:

> 'We're giving away great textbooks and making them open because it solves real problems for students and instructors. In so doing, we are creating a large market for our product. We then turn around and sell things of value to that large market.'[186]

In April 2010, FWK partnered with Barnes & Noble to distribute low-cost print versions of its texts, placing them in 3,000 B&N and National Association of College Stores across the United States.

Non-profit publisher Pratham Books[187] joined the Commons in November 2008,[188] prompted by its work with Nepal's One Laptop Per Child (OLPC) and Open Learning Exchange. Established to make children's books more accessible, and to provide primary education for every child in India, Pratham offered six children's books under CC BY-NC-SA 2.5 India via Scribd. Pratham has revisited its licence choice, subsequently adopting CC BY 3.0 Unported, and CC BY-SA 3.0 Unported for audio versions, podcast in English and Urdu by Radio Mirchi. Pratham has also expanded the format in which books are made available.

Qedoc Interactive Resources[189] offers learning materials in a range of disciplines across the primary, secondary and tertiary levels, allowing teachers and learners to reuse and remix content according to their needs. Qedoc employs a variety of CC licences, although disallows –ND, in line with the OER definition. Qedoc has found the CC BY-NC-SA licence to be the most adopted. For documentation and development, the project employs a wiki licensed under CC BY-SA Generic.

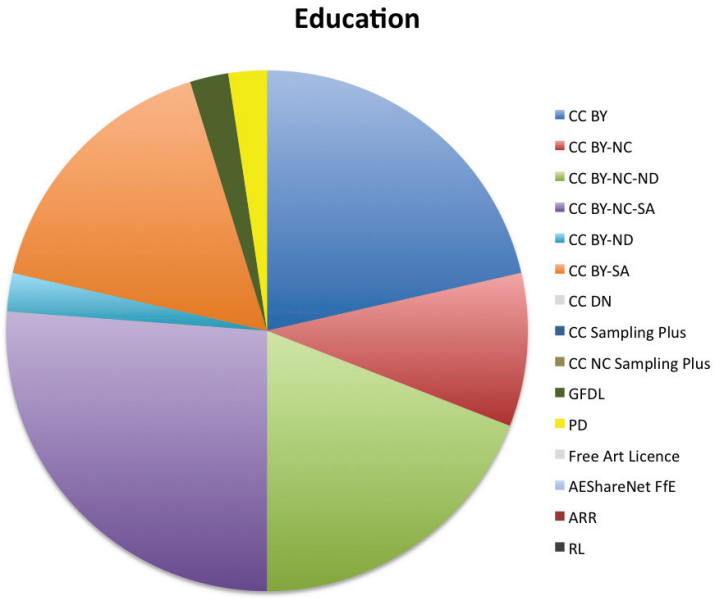
Stanford graduate John Wetzel established WikiPremed[190] to assist premedical students prepare for the US Medical College Admission Test (MCAT). WikiPremed offers twenty modules of materials in physical and biological sciences, ranging from textbooks to test questions. The site offers digital materials for free under CC BY-SA 3.0 Unported, but charges for print materials

such as flash cards. Of its business model, Glyn Moody notes:

> 'What's interesting here is that once again it's analogue goods that bring in the money, while the digital side does the marketing – a pattern that is emerging in many sectors… Free content has another great case study showing how you can make money from giving stuff away.'[191]

Several independent textbooks have been developed in this time – *Dive Into Python and Python for Informatics*, discussed in FLOSS, and *Motion Mountain: The Free Physics Textbook*,[192] developed by Christoph Schiller and licensed CC BY-NC-ND 3.0 Germany.

Summary of licence use in sector



Licence	Number	Percentage
CC BY	9	21.4%
CC BY-NC	4	9.5%
CC BY-NC-ND	8	19.0%
CC BY-NC-SA	11	26.2%
CC BY-ND	1	2.4%
CC BY-SA	7	16.7%
CC DN	0	0.0%
CC Sampling Plus	0	0.0%
CC NC Sampling Plus	0	0.0%
GFDL	1	2.4%
PD	1	2.4%
Free Art Licence	0	0.0%
AEShareNet FfE	0	0.0%
ARR	0	0.0%

RL	0	0.0%
Total	**42**	**100.0%**

- A recent report issued by P2PU, *A Guide to Choosing an Open Licence: The Peer 2 Peer University Experience*,[193] considers which CC licence best suits OER. After consultation with educational and legal experts, P2PU chose CC BY-SA, with allowance for CC BY for third-party funded materials. Traditionally, OER licences are the more open of the CC suite to facilitate continued remixing and reuse amongst educators and their institutions.
- CC BY and CC BY-SA are used by CK-12 Foundation, Connexions, Curriki, P2PU, Pratham Books, and WikiPremed. In contrast, MIT OpenCourseWare uses CC BY-NC-SA 3.0 United States.
- 21.4% of surveyed projects adopt ND. This clause is excluded from sites such as Qedoc as it prevents the remixing of materials.

Anyone Can Edit: Wikis & Creative Commons

Title	Licence	Details
GrassrootsWiki	CC BY-SA 3.0 Unported (NB no licensing appears on wiki)	Germany/Global.
Hitchwiki	CC BY-SA 3.0 Unported	Global.
Rezepte Wiki	CC BY-SA 3.0 Germany	Germany.
Stack Overflow	CC BY-SA 2.5 Generic	Global.
Travellerspoint Travel Guide	CC BY-SA 3.0 Unported	Global.
Wikipedia	CC BY-SA 3.0 Unported	Global.
WikiPremed	CC BY-SA 3.0 Unported	United States of America.

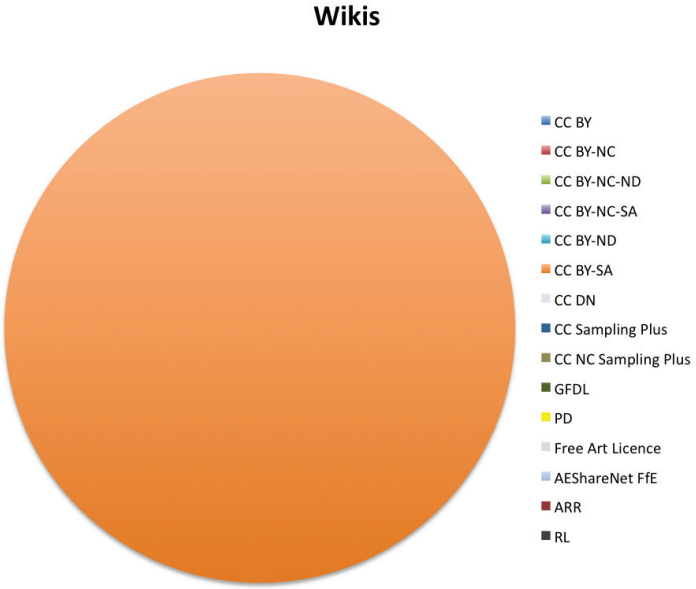
Perhaps the most notable development to occur subsequent to the publication of the initial Case Studies collection has been Wikimedia's transition to CC BY-SA,[194] thereby assuring the 'interoperability of free culture.'[195] Approving Wikipedia's migration from the GNU Free Documentation Licence (GFDL) to the CC 'wiki' licence on 21 May 2009,[196] the Wikimedia Foundation has also overseen the licence transition of all Wikimedia-hosted wikis, including projects such as Citizendium,[197] WikiEducator,[198] and the Encyclopedia of Earth,[199] amongst many others.[200] In his declarative post, 'Wikipedia + CC BY-SA = Free Culture Win!,' Creative Commons' Vice President Mike Linksvayer emphasised the importance of outreach to non-Wikimedia wikis to encourage the adoption of the CC wiki licence. The CC Case Studies wiki (published under the more permissive CC BY 3.0 Unported licence) now includes details of the following openly licensed wiki projects: GrassrootsWiki,[201] Hitchwiki,[202] Rezepte Wiki,[203] Stack Overflow,[204] Travellerspoint Travel Guide,[205] and WikiPremed.[206]

Containing educational content, WikiPremed is detailed in the OER section of this paper, with Stack Overflow summarised in the FLOSS section. Outlining its motivations to adopt the CC wiki licence, the founder of Stack Overflow notes:

> 'The community has selflessly provided all this content in the spirit of sharing and helping each other. In that very same spirit, we are happy to return the favor

by providing a database dump of public data. We always intended to give the contributed content back to the community.'[207]

Summary of licence use in sector



Licence	Number	Percentage
CC BY	0	0.0%
CC BY-NC	0	0.0%
CC BY-NC-ND	0	0.0%
CC BY-NC-SA	0	0.0%
CC BY-ND	0	0.0%
CC BY-SA	10	100.0%
CC DN	0	0.0%
CC Sampling Plus	0	0.0%
CC NC Sampling Plus	0	0.0%
GFDL	0	0.0%
PD	0	0.0%
Free Art Licence	0	0.0%
AEShareNet FfE	0	0.0%
ARR	0	0.0%
RL	0	0.0%
Total	**10**	**100.0%**

- 100% of wikis surveyed for this project employ the CC Wiki licence, CC BY-SA, reflecting a successful adoption campaign.

From Free Software to Free Culture: Open Source & Creative Commons

Title	Licence	Details
Computer Masti (CM)	CC BY-NC-SA 2.5 India	India.

Google Summer of Code (GSoC)	CC BY 3.0 Unported, GPL	United States.
Haansoft Office	Various: Allows embedding of CC licence suite	Korea.
Linux Outlaws (Fabian Scherschel & Dan Lynch)	CC BY-SA 3.0 Unported	Germany & United Kingdom.
MCM	CC BY-NC-SA 2.5 Canada	Canada.
Open Clip Art Library	PD	Global.
PICOL: PIctorial COmmunication Language (Melih Bilgil)	CC BY-SA 3.0 Unported	India.
Mark Pilgrim	*Dive Into Python*: GNU FDL *Dive Into Python 3*: CC BY-SA 3.0 Unported *Dive Into HTML5*: CC BY 3.0 Unported	United States.
Python for Informatics (Chuck Severance)	CC BY-SA 3.0 Unported	United States.
Stack Overflow	Wiki: CC BY-SA 2.5 Generic Podcasts: CC BY-NC-SA 3.0 United States	United States / Global.

Several studies develop or deploy Free / *Libre* and Open Source Software (FLOSS), or are directly inspired by the norms of these movements, notably the work of Richard M. Stallman of the Free Software Foundation. These case studies are often allied to educational initiatives, offering open textbooks or internships.

A notable example of the success of open source is Mark Pilgrim. Author of popular programming texts *Dive Into Python* and *Dive Into Python 3*, Mark is a prominent advocate of FLOSS and OCL. Stating 'free software deserves free documentation,' Mark licensed *Dive Into Python* under GFDL in October 2000. Given the success of the download, Mark collaborated with Apress on a hardcopy, earning him over $10,000 in royalties. Apress published *Dive Into Python 3* in January 2009 under CC BY-SA 3.0 Unported, a 'mature alternative to GFDL.' Recognising Mark's commitment to open licensing and free online publishing, Google Press has commission *Dive Into HTML5*. Mark negotiated a CC BY licence with O'Reilly for this work. Mark believes that CC BY and CC BY-SA best reflect the free culture ethos, allowing books to take on a life of their own.

> 'You have the freedom to keep this book alive. If I choose to stop distributing it, you can distribute it yourself. If I move on and this book goes out of date, you can pick up where I left off and keep this book current and relevant.'[208]

Python for Informatics: Exploring Data[209] is a text compiled by Chuck Severance, a legal remix of *Think Python: How to Think Like a Computer Scientist*, by Allen B. Downey, Jeff Elkner *et al*., licensed under GFDL. Following Wikipedia's transition to CC BY-SA from GFDL, Chuck obtained permission from the current copyright holders to change the text's terms:

> 'Using the CC BY-SA license maintains the book's strong copyleft tradition while making it even more straightforward for new authors to reuse this material as they see fit.' (Preface)

Supporting education at the university level, Google Summer of Code (GSoC)[210] offers students stipends to work on a wide array of FLOSS projects over summer. Initiated in 2005 by Sergey Brin and Larry Page, GSoC has partnered with CC to offer students insights into open content as well as open software. The program offers all documentation and APIs created during internships under CC and FLOSS licences.

Computer Masti (CM)[211] is a computer course offered by InOPEN, Mumbai, for school children in India. InOPEN works extensively with FLOSS technologies at both the university and school levels. CM's program offers a series of educational technical books and activities, published under CC BY-NC-SA 2.5 India, to encourage educators to translate content and contribute to the project.

A podcast about Linux and FLOSS, *Linux Outlaws*[212] is hosted by Fabian Scherschel and Dan Lynch, two free culture and free software advocates who record live from Bonn, Germany, and Liverpool, UK, respectively. First broadcast on 5 September 2007, the podcast deals with an everyday, rather than expert, opinion on Linux distributions and developments in open source. Each episode attracts around 2000 downloads,[213] and is licensed CC BY-SA 3.0 Unported.

MCM[214] is the Canadian author of *The Pig and The Box*, a CC BY-NC-SA-licensed children's tale of the dangers of Digital Rights/Restrictions Management (DRM). A response to Access Copyright's 'Captain Copyright' campaign, the book has attracted praise from Cory Doctorow and Richard Stallman. MCM considers his licensing approach in 'Creative Commons: To NC or Not to NC,'[215] noting that 2/3 of all CC-licensed works carry the NonCommercial restriction.[216]

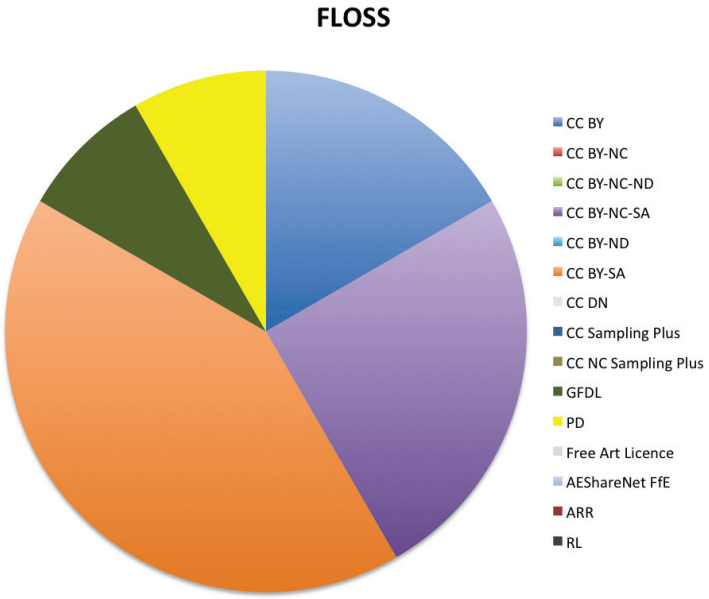
The Open Clip Art Library[217] is a repository of user-contributed clip art freely available for any use, and in particular, open-source software such as OpenOffice.org or AbiWord. In June 2010, the archive hosts over 64,000 images,[218] all of which are in the public domain. The site is powered by open-source software ccHost.[219]

PICOL, the Pictorial Communication Language,[220] is a project initiated by Melih Bilgil in December 2008 to create a standard sign system for electronic communications. As of 1 July 2010, 105 icons are available for download under CC BY-SA 3.0 Unported, being 'free to use and open to alter.'

Haansoft Office 2007[221] is an extension developed by Hancom Inc., Korea, allowing the application of the CC licence suite to word-processing documents. Hancom is additionally pursuing open-source software via the Asianux Linux distribution.

Stack Overflow[222] is a wiki-styled website featuring community-curated questions and answers on technical issues. Established by Jeff Atwood and Joel Spolsky in 2008, Stack Overflow serves as a repository of collective wisdom on difficult and unusual programming tasks, being collaboratively built and maintained, with registered users[223] contributing expertise and being rewarded by reputation points and badges. User-contributed content is licensed under 'CC Wiki,' CC BY-SA 2.5 Generic, whilst podcasts discussing programming-related issues are released under CC BY-NC-SA 3.0 United States.

Summary of licence use in sector



Licence	Number	Percentage
CC BY	2	16.7%
CC BY-NC	0	0.0%
CC BY-NC-ND	0	0.0%
CC BY-NC-SA	3	25.0%
CC BY-ND	0	0.0%
CC BY-SA	5	41.7%
CC DN	0	0.0%
CC Sampling Plus	0	0.0%
CC NC Sampling Plus	0	0.0%
GFDL	1	8.3%
PD	1	8.3%
Free Art Licence	0	0.0%
AEShareNet FfE	0	0.0%
ARR	0	0.0%
RL	0	0.0%
Total	**12**	**100.0%**

- The most popular licence among FLOSS projects is predictably CC BY-SA (41.7%), which best accords with 'copyleft' sentiment, mirroring Wikipedia's transition from GFDL to CC BY-SA in 2009.
- The next most adopted licence is CC BY-NC-SA, which preserves the ShareAlike provision (25%).

Are You Game? Exploring the Gift Economy with Interactive Resources

Title	Licence	Details
GiftTRAP	CC BY 2.5 Generic	Global.
Runes of Gallidon	CC BY-NC-SA 3.0 Unported, CC+	Global.
Strange Company	*Bloodspell*: CC BY-NC-SA 2.5 Generic	United Kingdom.

A new category of entry featuring on the CC Case Studies wiki is interactive, gaming resources.

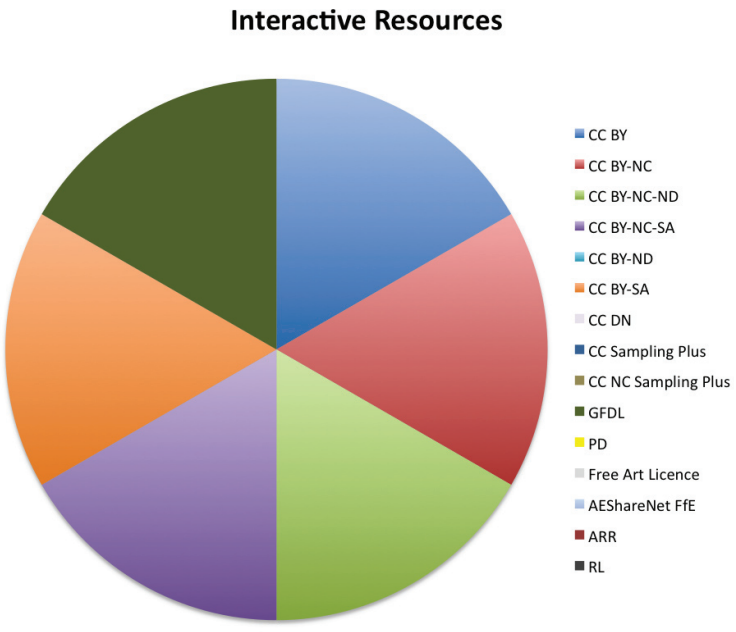
GiftTRAP[224] is a prominent proponent of CC in its use of CC BY Flickr images on game cards, themselves licensed CC BY-NC 2.5. Established in 2006 to explore the gift economy, GiftTRAP encourages players to contribute new rules and derivations, and even a new name for the game.[225] Awarded *Spiel des Jahres 2009*, GiftTRAP has been translated into eight languages, and attributes its success to CC.

Runes of Gallidon[226] establishes a collaborative fantasy world where users ('artisans') are encouraged to contribute creative works to enrich gameplay, whilst retaining commercial rights. Employing CC BY-NC-SA 3.0 for submissions, Runes' founding company Brain Candy, LLC explores the idea of a 'renewable entertainment franchise model,' enabling users to recombine each other's ideas in innovative ways whilst interacting with franchise content. Through an 'Artisan's Agreement,'[227] users allow Brain Candy to format, post, sell, and market their work under CC BY-NC-SA 3.0, whilst retaining those rights.

> 'Choosing Creative Commons for our license… demonstrated how much we want to encourage and endorse what fans already do: re-interpret content on their own terms, in their own way.' – Scott Walker, Co-Founder, Runes of Gallidon[228]

Also drawing on the world of gaming is **Strange Company**,[229] the world's oldest machinima[230] concern. Founded in 1997 by Gordon McDonald and Hugh Hancock, Strange Company crafted the feature-length film ***Bloodspell***[231] over three years, employing the BioWare Aurora game engine. Released under CC BY-NC 2.5 Generic in 2007, *Bloodspell* attracted around 100,000 views. Hugh explains the company's choice of CC:

> 'I want people to be able to show my movie to their friends. I want them to be able to make music videos from it, or fan-fiction, or whatever. If they're doing that, they're talking about our work, they're getting their friends involved in it, they're spending time in our universe.'[232]



Summary of licence use in sector

Licence	Number	Percentage
CC BY	1	16.7%
CC BY-NC	1	16.7%
CC BY-NC-ND	1	16.7%
CC BY-NC-SA	1	16.7%
CC BY-ND	0	0.0%
CC BY-SA	1	16.7%
CC DN	0	0.0%
CC Sampling Plus	0	0.0%
CC NC Sampling Plus	0	0.0%
GFDL	1	16.7%
PD	0	0.0%
Free Art Licence	0	0.0%
AEShareNet FfE	0	0.0%
ARR	0	0.0%
RL	0	0.0%
Total	6	100.0%

- The distribution of licensing choice for interactive resources and games is evenly spread.

Ways Forward for the CC Wiki Project

> 'The licenses have attracted passionate musicians from Brazil, resourceful hackers from Amsterdam, talented remix artists from Japan, educators from South Africa concerned with open education and open access publishing, and so many other people.' – David Bollier[233]

As identified throughout this paper, the CC Case Studies wiki is an invaluable resource for both the organisation and users of Creative Commons. Since its establishment in 2008 by Creative Commons Australia[234] in collaboration with an international development team, the wiki's evolution has occurred according to a roadmap,[235] emphasising collaborative curation of the site.

With regard to quantity of contributions, it is desirable that further CC jurisdictions become involved in this project to illustrate how localised licences have been received, and identify where assistance can be provided. Multilingual support of the wiki is integral to its ongoing relevance. To capture the interdisciplinary nature of CC, it is also desirable that the wiki reach artists and institutions of all kinds. Further outreach programs are required, whether through enlisting the connectors identified in this article, word-of-mouth campaigns, or via social networks such as Facebook, Twitter, and YouTube. ccSalons, conferences, and competitions all feature within this program. The challenge of course remains of connecting with creators who aren't yet aware of CC.

In terms of quality of contributions, continued curation is required. Assisting contributors

whose entries remain incomplete and understanding the challenges of data collection is key. Providing 'how-to's, FAQs and translation tools, alongside multi-format feedback mechanisms is central to this campaign.

An additional enhancement may be the incorporation of thematic 'trails,' curated to provide a pathway through a specific topic. Illustrative narratives are presented by Picture Australia,[236] demonstrating images of 'Arts & Culture' and 'History & Society,' amongst others.

To provide rigour to the wiki, the implementation of Wikipedia-styled metrics may be appropriate, although the possibility of creating further barriers to participation should be noted. Any such step should be undertaken in consultation with the CC community, via mailing lists and the website.

Ultimately, by celebrating success, the CC Case Studies wiki can facilitate ongoing, informed licence adoption. The CC story has just begun.

Endnotes/Refernces

1 'CC Vietnam Launches at Open CourseWare Consortium Global Meeting in Hanoi,' Michelle Thorne, 7 May 2010, http://creativecommons.org/press-releases/entry/21941.

2 'Creative Commons Newsletter September 2009,' Issue No. 14, http://mirrors.creativecommons.org/newsletter/ccnewsletter14.pdf.

3 'Planning for sustainable and strategic impact: Creative Commons and open education,' Mike Linksvayer, 25 January 2010, http://creativecommons.org/weblog/entry/20292.

4 http://www.whitehouse.gov/, as applied to third-party materials uploaded to the site.

5 http://cc.aljazeera.net/

6 http://www.clrn.org/fdti/

7 'NIH Open Access mandate made permanent,' Thinh Nguyen, 17 March 2009, http://sciencecommons.org/weblog/archives/2009/03/17/nih-mandate-made-permanent/.

8 http://wiki.creativecommons.org/Case_Studies

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bernard_techniques_to_identify_themes_in.htm.

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14 http://creativecommons.org.tw/licwiz/english.html

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16 Triangulation is at the heart of the case study approach: Yin, R.K. (2002). Case Study Research Design and Methods, 3rd ed, London: Sage, p. 93. For endorsement of mixed methods, see for example, Gable, G. (1994). Integrating case study and survey research methods: an example in information systems. European Journal of Information Systems, 3(2), pp. 112-126.

17 http://monitor.creativecommons.org/Main_Page

18 http://wiki.creativecommons.org/Metrics

19 Yin, R.K. (1994). Case Study Research, Design and Methods, 2nd ed. Beverly Hills, CA: Sage, pp. 4-6.

20 Yin, R.K. (1993). Applications of Case Study Research. Beverly Hills, CA: Sage.

21 https://creativecommons.net/

22 https://support.creativecommons.org/

23 http://en.wikipedia.org/wiki/Wikipedia:WikiProject_Law/Assessment#Quality_scale

24 Hemetsberger, A. (2003). 'When Consumers Produce on the Internet: The Relationship between Cognitive-affective, Socially- based, and Behavioral Involvement of Prosumers,' p. 9. Retrieved 1 July 2010 from http://opensource.mit.edu/papers/hemetsberger1.pdf.

25 http://wiki.creativecommons.org/Case_Studies/Black_brow. Similarly, music site Jamendo implements CC saying, 'Be known and recognized. Spread your music worldwide,' http://wiki.creativecommons.org/Case_Studies/Jamendo_Study.

26 See, for example, the policy of Gatehouse Media: http://wiki.creativecommons.org/Case_Studies/GATEHOUSE_MEDIA:_CREATIVE_COMMONS_CREATES_COMMUNITY.

27 'Brad Sucks,' Cameron Parkins, 29 September 2008, http://creativecommons.org/weblog/entry/9750.

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29 http://wiki.creativecommons.org/Case_Studies/Indaba_Music

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34 http://wiki.creativecommons.org/Case_Studies/Blender_Foundation

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36 http://wiki.creativecommons.org/Case_Studies/Christopher_Willits. Chris also observes that, 'I believe that if you live your love and passion, and if you open up the exposure to your work in creative ways, like using CC to communicate your intentions of sharing, you will see the benefits and the effects that your creativity has on the world.'

37 Misteriddles, www.flickr.com/photos/misteriddles

38 Benkler, Y. (2006). The Wealth of Networks. Retrieved 1 July 2010 from http://www.benkler.org/Benkler_Wealth_Of_Networks.pdf.

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40 http://wiki.creativecommons.org/Case_Studies/Pamoyo

41 http://wiki.creativecommons.org/Case_Studies/A_Map_of_Our_Own:Kwun_Tong_Culture_and_Histories

42 http://wiki.creativecommons.org/Case_Studies/University_of_Michigan_Library

43 http://powerofinformation.wordpress.com/

44 http://data.gov.uk/about

45 http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/

46 http://gov2.net.au/about/

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Vintage Books.

49 http://wiki.creativecommons.org/Case_Studies/Postmoderncore. See also Filter Magazine, 'Artwork is created to be shared, not owned,' http://wiki.creativecommons.org/Case_Studies/Filter_Magazine.

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51 http://wiki.creativecommons.org/Case_Studies/RIP:_A_Remix_Manifesto

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53 'CC Talks with Epic Fu,' Cameron Parkins, 4 August 2008, http://creativecommons.org/weblog/entry/8674.

54 Bandura, A. (Ed.). (1995). Self-Efficacy in Changing Societies. Cambridge: Cambridge University Press.

55 Op. cit., p. 10.

56 http://wiki.creativecommons.org/Case_Studies/GotoKnow.org

57 Blanchard, A., & Markus, M. (2002). 'Sense of Virtual Community – Maintaining the Experience of Belonging,' Proceedings of the 35th Annual Hawaii International Conference on System Sciences (HICSS'02), 8, pp. 270b. Abbreviated as 'SoVC.'

58 This encompassing term was first employed by Rishab Aiyer Ghosh in 2001, and has been used in worldwide impact studies for the European Union, as per http://www.flossworld.org/.

59 The Free Software Definition, encompassing four freedoms, is published by the Free Software Foundation (FSF) at http://www.gnu.org/philosophy/free-sw.html.

60 Open Source Definition, as per the Open Source Initiative, http://www.opensource.org/docs/osd.

61 Slashdot (21 February, 2001). Rebel Code, http://slashdot.org/books/01/01/29/2037257.shtml.

62 Lessig and Doctorow have inspired musician Jonathan Coulton, Brian Boyko (director Following Alexis West), educator Mike Seyfang, and Aduki Independent Press' manager Emily Clark, amongst others. Coulton opines, 'Everyone in the world should read Lawrence Lessig's book Free Culture. …The things he says make so much sense,' http://wiki.creativecommons.org/Case_Studies/Jonathan_Coulton.

63 Flickr has been the means by which the following creators were introduced to the Commons: Ali J Art & Illustration, Dublit.com's John Yi, Bert Jerred, and VOCAB: with Bennu's Vincent Brown.

64 The professional and personal connections with Creative Commons have influenced the adoption of CC licences for OESR and ultimately GILF, and New Zealand's Knives at Noon.

65 In addition to attracting $US1.6 million revenue in its first week and achieving #1 on Billboard's electronic charts, Ghosts I-IV was ranked the best-selling mp3 album of 2008 on Amazon's MP3 store. 'NIN's CC-Licensed Best-Selling MP3 Album,' Fred Benenson, 5 January 2009, http://creativecommons.org/weblog/entry/11947.

66 http://www.curtsmithofficial.com/

67 http://www.myspace.com/monkturner

68 'CC Salon LA (6/26/08): Curt Smith and Monk Turner Discuss CC/Music,' Cameron Parkins, 19 June 2008, http://creativecommons.org/weblog/entry/8375.

69 http://www.curtsmithofficial.com/music/album/halfway-pleased

70 http://www.good.is/post/curt-smith-on-the-musical-value-of-sharing/, published under CC BY 3.0 United States. In addition, Smith's site features a video interview on Retro Rewind with Dave Harris from 4 November 2008 in which the artist discusses the benefits of CC: http://www.curtsmithofficial.com/videos/retro-rewind-interviews-curt-smith.

71 http://code.google.com/creative/radiohead/

72 http://code.google.com/p/radiohead/downloads/list. Data was captured using geometric informatics and Velodyne LIDAR, employing 64 lasers rotating 360° and shooting 900 times per minute, in exchange for lights and cameras.

73 http://www.youtube.com/group/houseofcards

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75 http://www.jamendo.com/en/

76 '20,000 albums? We can hardly believe it!,' 25 May 2009, http://blog.jamendo.com/2009/05/25/20000-albums-we-can-hardly-believe-it/; 'Jamendo reaches 20,000 albums,' Mike Linksvayer, 25 May 2009, http://creativecommons.org/weblog/entry/14695.

77 http://pro.jamendo.com/en/. A deal was subsequently struck with the International Hotel & Restaurant Association (IH&RA) to provide ambient music for their estimated 300,000 hotels and 8 million restaurants, with artists receiving 50% of revenue raised: 'Commercially Licensed Music from Jamendo Pro,' Fred Benenson, 19 February 2009, http://creativecommons.org/weblog/entry/12852. In April 2010, MusicMatic invested in Jamendo, buying out Mangrove Capital Partners' share: 'Jamendo PRO Partners with International Hotel & Restaurant Association,' Cameron Parkins, 2 November 2009, http://creativecommons.org/weblog/entry/18806.

78 'Commercially Licensed Music from Jamendo Pro,' Fred Benenson, 19 February 2009, http://creativecommons.org/weblog/entry/12852.

79 http://www.breipott.cc/

80 Die Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte, http://www.gema.de/.

81 http://www.kwuntongculture.hk/

82 http://globallives.org/. Founded by David Evan Harris, GLP is an international collaboration of filmmakers whose aim is to encourage intercultural education and understanding via technology, forming an ongoing dialogue about development and diversity, social justice, sustainability, and similarities across cultures. The collective currently comprises hundreds of volunteers – filmmakers, programmers, photographers, engineers, architects, designers, students and scholars – who are creating an ongoing, participatory library of human experience. New footage is continually being incorporated, and subtitling into many languages progressing.

83 'When Global Lives got started, our core objective was to record the daily lives of ten people who were "roughly representative of the world's population",' http://creativecommons.org/weblog/entry/12296.

84 http://www.malaysianartistesforunity.info/

85 http://www.digitalmalaya.com/unity/. The project is led by Muid Latif to capture the keywords 'Unity' and 'Love' in street portraits to be published on Flickr.

86 http://www.pmc.aut.ac.nz/

87 In pursuit of this goal, the Centre has developed relationships and collaborations with a number of allied organisations, including the Asia NZ Foundation (ANZF), the Australian Centre for Independent Journalism (ACIJ), the Human Rights Commission (HRC), and the Pacific Cooperation Foundation (PCF).

88 http://okapi.berkeley.edu/remixing/mainpage.html

89 'Remixing Çatalhöyük Launches,' 5 October 2007, http://okapi.wordpress.com/2007/10/05/remixing-catalhoyuk-launches/.

90 http://sarawakgone.cc

91 http://www.toysatellite.org

92 http://www.engagemedia.org/

93 http://rengah.c2o.org/

94 Literally, 'inhabitants of land.'

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96 http://razvezanijezik.org/

97 'CC Talks with The Global Lives Project,' Cameron Parkins, 23 January 2009, http://creativecommons.org/weblog/entry/12296.

98 http://aswarmofangels.com/

99 http://aswarmofangels.com/2008/01/7-rules-for-open-source-media/

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Sharing with Creative Commons: A Business Model for Content Creators

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Abstract: Creative Commons (CC) is often seen as a social movement, dismissed by critics as a tool for hobbyists or academics who do not sell their creations to make a living. However, this paper argues that the licensing of creative copyright works under a CC licence does not preclude commercial gain. If used wisely, CC licences can be a useful tool for creators in their quest for commercial success. In particular, this paper argues that the sharing of creative works online under a CC licence allows creators to circumvent traditional distribution channels dominated by content intermediaries, whilest maintaining a level of control over their copyright works (i.e. explicitly reserving some rights but not all rights). This will be illustrated by case studies on how CC is being used by content creators and intermediaries respective

Introduction

Creative Commons (CC) is often seen as a social movement, dismissed by critics as a tool for hobbyists or academics who do not sell their creations to make a living.[1] The application of CC licences by copyright owners to their works permits the public at large to share the work with others, subject to certain conditions. There is concern that CC promotes a "gift culture" which devalues creative works both in society at large and in the minds of creators themselves.[2] These concerns stem from doubts as to one's ability to make money off a work that can legally be shared on the internet or anywhere else.[3]

These arguments may be valid in certain circumstances, but do not apply absolutely across the board. This paper argues that the licensing of creative copyright works under a CC licence does not preclude commercial gain. If used wisely, CC licences can be a useful tool for creators in their quest for commercial success.

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> I didn't do this because I'm a big-hearted slob, I did it because I saw an opportunity to make more money. - Cory Doctorow on releasing his book as a free download under CC[5]

In fact, the sharing economy is already worth billions of dollars, the most obvious direct financial beneficiaries generally being the firms that sell the hardware, software and bandwidth required to produce and distribute.[6] However, benefits to the technology sector aside, this paper asks: can the legitimate[7] sharing of works under CC licences benefit creators themselves?[8] Over the years, the copyright system has privileged the economic interests of intermediaries (i.e. distributors such as publishers, movie studios and record companies) at the expense of creators.[9] This may have been sensible at a time when mass distribution of creative works required significant investment.[10] In this new, networked digital environment, do all creators still need intermediaries to find both an audience and financial reward? Or is there an alternative way forward?

In order to address these issues, firstly, this paper will summarise the role content intermediaries have played in the copyright system. Secondly, the unrealised potential and reach of the internet, combined with CC licences, as commercial tools for creators will be explained using concepts such as supply and demand, scarcity, and permission marketing. This will be followed by case studies on how CC is being used by content creators and intermediaries (specifically, in the category of music and cinematograph films), and how successful their respective methods are in harnessing this tool.[11]

Finally, this paper concludes that making one's work available on the internet helps to bridge the gap between creators and their audience. It provides a point of entry into a position to be heard. CC licences, in turn, provide the legal mechanism to exercise a degree of control over that copyright work, where such control is necessary. However, whilst sharing work under a CC licence can be a valuable alternative over traditional distribution methods, a CC licence is merely a whichtool that facilitates the sharing of copyright material. Commercial success (if any) would be determined by how it is used and for what kind of copyright work. Although this paper provides several examples of creators integrating CC licences into their business models and generating successful commercial enterprises, these methods are by no means exhaustive considering the infinite variety of copyright works to which CC can be applied to. This article hopes to dispel the myth that making money from copyright works shared under a CC licence is impossible, whilst providing a few inspiring case studies of what is indeed possible.

The Role of Intermediaries

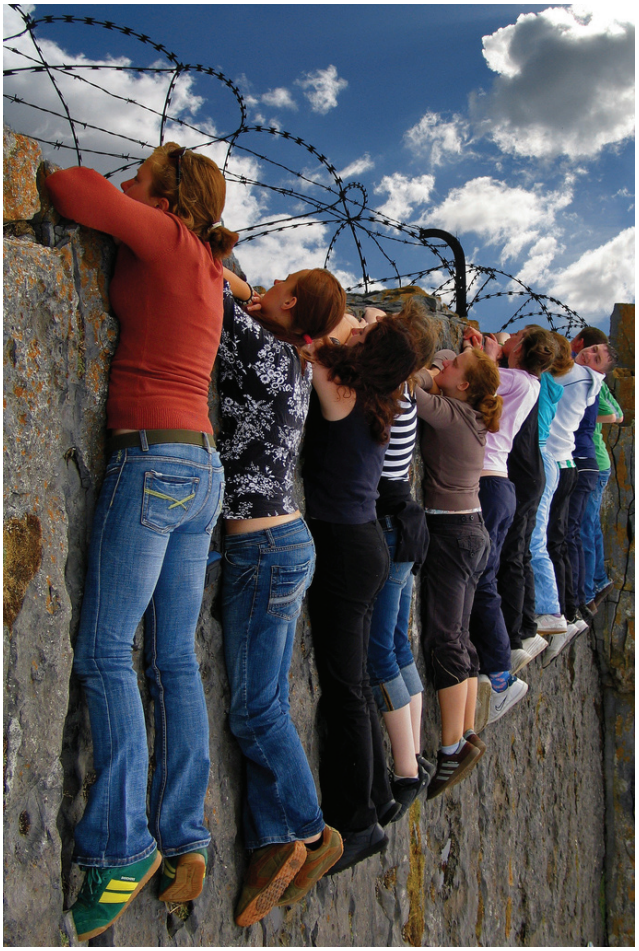
Under the conventional (but not uncontested) economic theory underlying copyright,[12] which is (put simply) the creation of economic incentives to encourage creativity,[13] intermediaries are heavily rewarded.[14] This is because intermediaries are seen as essential creators of markets for copyright works - they provide the money that acts as an incentive for creators to make new works and they move copies of those works to where readers, listeners and viewers can enjoy them.[15]

As the entities that buy copyrights from creators, these intermediaries claim to stand in the shoes of the audience for the works.[16] They harness the efforts of a small number of contracted or employed creators to the exclusion of creators who simply do not 'make the cut'.[17] This current structure relies largely on a small number of creators seeking to serve the widest possible audience, via distribution by intermediaries.[18] Very often, creators are required to

assign copyright ownership over completely if they want to work with these large intermediaries.[19] Copyright ownership is, for the most part, held by large intermediaries, resulting in "a world where no longer are there many people competing to produce and distribute cuture".[20]

The reliance on intermediaries under the current model creates an imbalance in terms of who gets to create and profit from art. If the conventional theory is accepted, and intermediaries are indispensable, does this mean that creators who wish to profit from their work, but cannot prove their commercial worth to intermediaries should just give up?

Digital reproduction and the internet have altered the intellectual property landscape.[21] Where creative content can be recorded in digital form, the cost of reproduction and distribution no longer poses as a substantial cost requiring the investment of intermediaries.[22] An emerging online sharing culture, assisted by the control mechanisms provided by open content licences, such as CC licences, is challenging the conventional way in which creative content is being marketed and distributed.



Are content intermediaries truly the gatekeepers to an audience?
Image: Beyond the wall by Giuseppe Bognanni (CC BY 2.0) http://www.flickr.com/photos/79286287@N00/215951891/

Creative Commons licences

CC licences are a set of six free standardised, "open content"[23] copyright licences that grant permission to the public to share and use copyright works, in accordance with the licence terms.[24] For example, a basic term common to all six licences is that whenever a work is copied or redistributed under the licence, credit must always be given to the creator/licensor.[25] This is a "some rights reserved" copyright licensing model that provides creators with flexible options in governing how their work is shared and used by others.[26] As it starts from the premise that copyright will be exercised to permit reproduction and distribution of the copyright material by others (subject to certain conditions of use), it is particularly relevant to material that can be distributed online in digital form.[27]

By applying a CC licence (and the corresponding CC badge) to a copyright work, the creator is permitting others (and signifying their permission to others) to distribute their work under the licence terms. It is with these legally enforceable licence terms that the owner maintains control over the work.[28] For example, a term of the licence provides that if a licensee breaches the licence (e.g. redistributes the work without giving credit to the creator), then the licence is revoked.[29] Therefore, the creator/licensor is able to seek recourse under copyright law for infringement of their copyright.[30]

Competing with Free

> Information wants to be free. Information also wants to be expensive. Information wants to be free because it has become so cheap to distribute, copy, and recombine--too cheap to meter. It wants to be expensive because it can be immeasurably valuable to the recipient. That tension will not go away. - Stewart Brand[31]

The price of information distribution is in free fall thanks to the world wide web. We are surrounded by "free", and the psychology of "free" is very powerful.[32]

The music industry is notorious for its struggle against illegal music distribution. Some in the music industry have realised that it is very difficult to compete with free.[33] Instead of fighting it, bands such as Radiohead and Nine Inch Nails have offered fans free music. However, these artists have shown that free is not the opposite of pay.[34] Providing free music recordings does not necessarily devalue the artist's music or their value as an artist. On the contrary, it can lead to the discovery of new business models. Creators can give some of their work away, and still get paid.[35]

The business model: How does it work?

> It's an analogue business model in a digital era. The business model has to change. You've got to licence out more music - have more Spotifys, more websites selling more music. You've got to make it slightly cheaper to get music in order to compete with the peer-to-peers. - Ed O'Brien, Radiohead[36]

There are many examples of CC being integrated into business successfully.[37] However, Nine Inch Nails frontman, Trent Reznor's implementation of a CC business model is particularly exemplary.

The band released albums *Ghosts I-IV* and *The Slip* for free under a CC Attribution Non-Commercial Share Alike (BY-NC-SA) license.[38] Whilst the first 9 tracks of *Ghosts I-IV* were free downloads, fans had further options ranging from a $5 download of all 36 tracks in the album to a $300 ultra-deluxe limited edition package.[39] As a result, they found immediate and substantial financial return ($1.6 million from 800,000 transactions in the first week),[40] as well as seeing their long-term sales flourish.[41] This is despite the fact that the 36-song version of the album was widely and legally available on peer-to-peer file-sharing sites.[42]

So how did Nine Inch Nails do it? According to Techdirt CEO Mike Masnick,[43] Nine Inch Nails' approach can be summarised to this formula:

> Connect With Fans (CwF) + Reason To Buy (RtB) = The Business Model ($$$$)[44]

Connect with Fans (CwF)

Essentially, CwF relies on the fact that using an information good that one has created may cause its users to seek out a relationship with the creator. The creator then charges for the relationship, not for the information.[45] Consequently, "content as product" gives way to "content as service".[46]

It is all about the relationship, and engaging fans. For example, Reznor not only gave away music, but also engaged fans with the band by giving them the ability to remix and redistribute the tracks under the CC Share Alike term.[48] Compare Radiohead's sub-par artwork-less release of "In Rainbows", described by Reznor as an "insincere", "shrewd" "marketing gimmick".[50] What is more, Radiohead stopped offering the album as a digital download and solely relied on a tradition label for subsequent distributions.[51]

The direct and instantaneous nature of sharing content with fans over the internet has the potential to create a sense of closeness between the creator and their fans. This is apparent when contrasted with the commodificationcommoditization of creative content by intermediaries.[52] The detachment of copyright from the creators, who author works, due to the assignment of copyright to intermediaries, enforces the perception that fans are simply buying a commodity.[53] Where a physical commodity is being sold, comparing the supply and demand for the product and estimating the optimal sale price for it may be useful.[54] However, due to technological advances certain commodities that are in digital form can easily be replicated. A connection with fans, on the other hand, is not easily created or maintained. Therefore, a connection with fans is not something that can be assigned a dollar value or be replicated with marketing gimmicks.

REASON TO BUY (RTB)

According to Masnick, a true RtB is a voluntary transaction.[55] This concept fits squarely within bestselling author and entrepreneur, Seth Godin's[56] criteria for 'Permission Marketing'.[57] Permission marketing is described as the privilege (not the right) of delivering anticipated, personal and relevant messages to people who want to receive them.[58] Permission marketers recognise that people do not have an obligation to buy,[59] and when people choose to pay attention they are giving a valuable asset.[60]

In the simplest terms, Godin's description of *real* permission is: "If you stop showing up, people complain, they ask where you went."[61] Effectively, it is a form of demand, with a difference. It is not artificially created by imposing legal scarcity on the work by enforcing the creator's exclusive rights under copyright law (which in this digital age, does not seem to be very effective).[62] Instead, this is demand for something that is actually scarce – the creator (and the connection to the creator that people feel from enjoying the creator's work).[63] In other words, the creator is the product. The works embody the creator, but the works can never substitute the source. It can perhaps be described as an alternative economic theory to copyright, one based on a consensual relationship between the creator and the people who appreciate their works.[64] The fans are not paying for the work because they merely want a product, but because they appreciate the creator and wish to show their support.

The internet allows the creator to treat different people differently, and it demands that the creator let their permission base choose what they hear and in what format.[65] In "competing with free" – the question then becomes: how free? Is releasing one third of a book (as Seth Godin did with 4 chapters of his book *Permission Marketing*) enough of a reason to buy?[66] Or is it Reznor's quarter of the album? Regardless, it is not merely a matter of quantity, but quality.[67] CC may be the obvious tool for permission – a stamp that says "share me"; however CC is not just free marketing.[68] First, one must ask: is the work being put out remarkable? [69] In other words, is it worthy of attention?[70]

> Creative Commons doesn't make people love your work in one spread. It gives the tools to people who love your work in one spread to do something. So, it

> doesn't solve the first problem. And that's a problem that every artist solves in their own way. - Cory Doctorow[71]

Permission marketing works by expressly allowing people certain freedoms. Instead of being "forced" to buy a product before they can experience it, people can choose to pay for something that they feel is worthwhile.

What a creator decides to put out under CC will of course vary with what they are selling, and who they are selling to. It is not just marketing to the masses, but finding the niche of people who value the work and are willing to pay. For instance, a CC Non-Commercial term allows the creator to separate the market, i.e. score business deals without limiting wide spread use of their material. Whilst online record label, Magnatune,[72] offers free audio streaming and allows consumers to purchase albums under a variable pricing model from $5, it also promotes the CC+ protocol[73] by offering a commercial-use licence.

In terms of the consumer base, examples of what might be seen to be of real value or real scarcity, include live gigs[74] and official merchandise (as opposed to mp3 recordings), a cinema experience (as opposed to watching a movie on a computer or TV) and even a limited edition CD/DVD box set. These are perceived to be of distinctly higher value compared to the digital files that can technically be shared at almost zero cost.

Unfortunately, while the formula itself may appear simple, executing iit successfully requires a good dose of imagination. A successful business model is about applying that "simple" Connect with Fans (CwF) + Reason to Buy (RtB) = The Business Model ($$$$) equation and engaging fans in a variety of different creative ways – which Reznor has done time and time and time again.[76] Reznor understood that allowing fans to share his content did not mean that he would lose revenue, but that he could gain new fans and earn the loyalty of existing ones.[77]

Case Studies

New business models are not limited to the music industry. Sooner or later, new business models will emerge in most creative industries where content can be enjoyed in digital form (e.g. books,[78] magazines,[79] news,[80] documentaries,[81] illustrations and images,[82] or films).

The following are four case studies on the integration of CC licensing into film production and distribution businesses. In particular, these case studies illustrate the differences between the use of CC by relatively unknown film producers (the creators behind the films *Cafuné* (2005) and *Star Wreck* (2005) respectively) and its use by major film studios (*Kiss Kiss Bang Bang* (2005) by Warner Brothers and *Two Fists One Heart* (2008) by Disney).

Cafuné

Cafuné (2005) is a romantic drama about the relationship that develops between a high society girl and a boy from a favela (or shanty town) and the conflict that ensues in Rio de Janeiro, Brazil.[83] This debut feature film by director and writer Bruno Vianna was simultaneously released in cinemas and on the internet (officially on the Overmundo project website[84] and on peer-to-peer file sharing networks) under a CC Attribution-Noncommercial-Share Alike (BY-NC-SA) 2.5 Brazil licence.[85] Because only approximately 50 Brazilian movies are released in Brazilian movie theatres every year, this distribution scheme was used to overcome the narrow theatre distributing channel.[86] As Bruno questioned: "Why shouldn't we seek [a] wider audience,

exploring all possible means of distribution?"[87]

Under the BY-NC-SA licence, anyone is able to download, copy, distribute for non-commercial purposes, and even remix the film. Bruno released two versions of the film. Therefore, depending on which movie theatre the film was watched, a different conclusion to the story take could take place.[88] This way, Bruno encouraged users to follow his lead and create new conclusions for the work, and encouraged the audiences' creative expression and involvement in the work.[89] Similar to Reznor, Bruno was connecting with fans (CwF) at a deeper level by providing them with options over and above mere objective appreciation. By participating, viewers were brought closer to the film.

The move arguably worked to increase demand (or a reason to buy (RtB)). Extraordinarily, the number of cinema-goers increased as time passed, following the dramatic rise in downloads.[90] After being dropped to two theatres following its initial release in six theatres in Rio de Janeiro, the film was brought back to another three theatres to continue its run.[91] *Cafuné* made it onto the list of the 20 most watched movies in Brazil on certain weeks[92] – not bad for a new filmmaker and the small number of theatres in which the movie was released.[93]

Star Wreck

Star Wreck: In the Pirkinning (2005) is the first ever Finnish feature-length science-fiction film.[94] The Star Trek parody follows the story of Captain James B. Pirk of the starship Kickstart who is shipwrecked in the "past" on 21st century earth with his crew. How they save the Earth from future hostile aliens – one will have to watch the movie to find out.[95]

The core group of five unemployed Finnish students, and over 300 extras, assistants and supporters took seven years to make the film on a shoestring budget.[96] On-location shoots were made in public places that did not cost money, and their "bluescreen studio" was a piece of blue linoleum in Samuli Torssonen's (creator, writer, producer and "Captain Pirk") living room.[97] In fact, the most expensive part of production was keeping the computer equipment up to date.[98]

Despite being in the Finnish local dialect of Tampere[99] (with English subtitles), it seems that the film's wacky humour and professional-quality visual effects have led to its world-wide appeal. In 2005, the film debuted online on the *Star Wreck* website under a CC Attribution Non-Commercial No Derivatives (BY-NC-ND) licence.[100] By the second month of its release, 2.92 million copies had been downloaded from the *Star Wreck* site, the figure eclipsing Finland's most-viewed film in theatres, the war epic "The Unknown Soldier" (1955, 2.8 million viewers).[101] Since then, the film has been downloaded countless times on BitTorrent peer-to-peer filesharing systems.[102]

Star Wreck took seven years of hard work to create, yet the producers never intended it to be a money making machine.[103] There was but one objective for the release: that the film may spread as widely as possible.[104] While an open distribution method allowed the film to reach a worldwide audience, it has not stopped the film's creators from making money. The film has since been aired on Finnish, Belgian and Italian TV, with DVD distribution deals in Finland, Sweden, Norway, Denmark (by Universal Pictures), Japan, UK and US.[105] Again, anyone can download and burn the film to DVD, but the official DVD contains extra material (making-of, deleted scenes, etc).[106] The amount of DVDs sold placed it among the top 5 Finnish movies in 2005[107] (more than 5000 DVDs),[108] and according to Stephen Lee (Star Wreck Studios CEO), "It cost 15,000 Euros to make and they've got 200,000

Euros so far."[109]

Star Wreck has successfully built a connection with fans (CwF), at the same time giving them a reason to buy (RtB). From its humble beginnings of the first *Star Wreck* short, a simple Star Control–like animation[110] with three ships shooting at each other (*In the Perkinning* is in fact *Star Wreck VI*),[111] Samuli's series of films has evolved and gradually built up the relationship with fans by encouraging collaboration. In the battle scenes, all but the main rebel ship were donated by individuals to the project.[112] The film has since been subtitled in 30 different languages.[113] Overall, more than three hundred people worked on the project for free over the last few years of production, with a further 3000 people actively participating in tasks ranging from naming characters to creating the film soundtrack.[114] This volunteer support in turn motivated the producers' desire make it free to watch and share.[115]

The creators are keeping this on-going permissive relationship alive, allowing fans to continue their support by voluntarily buying the DVDs – as the advertisement for the Star Wreck DVD says: "Order now and help us make a sequel."[116] By buying the DVD and merchandise,[117] fans are supporting Star Wreck Studios' future productions *Iron Sky* (a sci-fi comedy about Nazis on the moon)[118] and *Sauna* (a horror film).[119] They have even come up with ingenious ways to garner other means of financial support, such as selling so-called "war bonds" for *Iron Sky*.[120] Fans are also able to participate in the film production process through Star Wreck Studio's Wreck-a-Movie website,[121] with tasks ranging from remixing the *Iron Sky* teaser[122] to submitting ideas on how to promote the film at the Cannes Film Festival.[123]

Kiss Kiss Bang Bang

Kiss Kiss Bang Bang (2005) is a crime/black comedy Warner Brothers production by Joel Silver (producer behind blockbuster successes such as *Lethal Weapon*, *Die Hard* and *The Matrix*), written and directed by Shane Black (director of *Lethal Weapon*) and starring Robert Downey Jr. and Val Kilmer.[124] Unusually for a Hollywood production, producers released its trailer and 5 movie clips on video-sharing site Revver[125] under Revver's default CC Attribution-Noncommercial-No Derivative Works (BY-NC-ND) licence.[126] The No Derivative Works condition meant that users were limited to copying and sharing the clips without altering them. They released the clips mainly for their online "Casting Call" contest which encouraged users to re-enact the released clips and upload them to *Kiss Kiss Bang Bang*'s contest website.[127] Up for grabs was a "big Hollywood break": a trip to Hollywood to meet a casting agent.[128]

Despite significant praise and mainly positive reviews,[129] the film was largely overlooked for major awards[130] and by the US Box Office (73% of its earnings were made abroad)[131] due to a limited release (only in 226 US theatres). And it seems that its "Casting Call" online contest did not do much to boost its presence. It appears that only 67 user-generated casting videos were uploaded to Revver,[132] a meager number considering the potentially wide reach of the internet. Regardless, the film still managed to gross a respectable $15 million worldwide.[133]

Two Fists One Heart

Two Fists One Heart (2008) is an Australian family drama about a champion boxer's (Daniel Amalm) relationship with his coach father (Ennio Fantasichini). As much as 30 minutes of film footage (5 scenes/rushes)[134] and selections from the soundtrack were released under a CC Attribution (BY) 3.0 unported licence.[135] This release, backed by the film's distributor Disney through Buena Vista International (Australia), is believed to be a world first for a commercially

backed film.[136]

As in the case of *Kiss Kiss Bang Bang*, an online competition was devised to encourage audience participation. Again, the contest promised top participants an "exposure to high-profile people in the film industry". However, it went a step further than *Kiss Kiss Bang Bang* by releasing the footage under a less-restrictive Attribution licence and therefore allowing remixing, which was in fact the premise of the competition. Fans were encouraged to mix the scenes, put them together as a short film and post them on YouTube (with a link back to the producers).[137] The best 5 scene cuts were to be rewarded with a space on Disney's promotional *Two Fists One Heart* site and personal contact with Bill Russo (head of Editing at the Australian Film, Television and Radio School) who would give them editing advice and help with their editing careers.[138]

The rushes contained footage not included in the film because to Bronwen Clune (head of Norg Media, the company behind the promotion) "the thought of footage being wasted and unused when someone could make something really creative with it was a real shame".[139] The move was therefore seen as a win-win – giving people professional footage, whilst promoting the film at the same time.[140] In addition, the rushes show a bit of behind-the-scenes action, giving people "a real look-in to what working on a professional movie set is like."[141]

Despite this genuine effort to encourage re-use and participation, like *Kiss Kiss Bang Bang*, the movie may have suffered due to a limited release (just 50 theatres), debuting at 15th place in its first weekend at the Australian box office (grossing $66, 574),[142] and grossing $141,723 in total.[143] While both tried to connect with fans (CwF), it does not appear that their efforts lead to a reason to buy (RtB).

Advertising vs Connecting

Out of the four film productions, the producers of *Star Wreck* have made the best use of CC licensing in their business model by engaging with fans and giving them a reason to buy. It seems that making the film free for fans to legally share "wound up being the best marketing".[144] The film has progressed from its online debut to DVDs, and talk about a theatre release. It appears to be a "completely upside-down economic model", the opposite of the usual theatre release winding down to pirated DVDs.[146] The production is a fine example of a creative enterprise making the most of the new networked digital environment to find an audience and financial reward.

Similarly, *Cafuné* has made the most of CC as a distribution channel to overcome limited exposure. Without online distribution, *Cafuné* would have just been a drama with the ordinary short run in Rio's theatres. Both *Cafuné* and *Star Wreck* were *wholly* released online for free under a CC licence, yet they did not suffer financially. In fact, both improved their financial returns – *Cafuné* in terms of theatre visits, and *Star Wreck* in terms of DVD sales. Instead of *competing* with "free" and the freedom to share under CC, the producers have *taken advantage* of "free", and the freedom to share their works under CC licences, to add value to their films.

In contrast, *Kiss Kiss Bang Bang* and *Two Fists One Heart*'s release of trailers and film clips/snippets online seem to be fairly mundane uses of CC licences. It does not appear that the releases did much to improve the films' respective positions in the market. Both chose a safer marketing model. In particular, the release of *Kiss Kiss Bang Bang*'s scenes under a No Derivative Works term is not very different from posting a trailer on websites.[147] They limited their use

of CC licensing to promote the film via one-way advertising instead of initiating a two-way dialogue. Accordingly, they have merely taken an incremental step from traditional advertising and trailer screening and transposed it onto the internet, thereby foregoing the possibility to engage and communicate with fans.

Suicide or the Wave of the Future?[148]

Still, one must appreciate the weight of the proposal. Releasing a film online and permitting others to legally share it under a CC licence is a big decision. Even for *Cafuné*, the decision was deeply studied and exhaustively debated amongst distributor, director and production office.[149] And it is likely to be more difficult for larger productions. The fact that a film usually belongs not only to its director, but also to the producer, distributor, investors etc., poses as a limit to open content licensing.[150] Such a decision could lead to boycotting by exhibitors (for example, Steven Soderbergh's experimental *Bubble* (2005), which was released simultaneously on cable TV, DVD and theatres, but shunned by many theatre owners who refused to screen the film).[151] Distributors usually aim to release films on an exclusive basis and for profit, after heavy investment.[152] They do not want to be competing with anyone else,[153] much less a free copy of the film that can be legally shared.

No surprise here, but the essential factor behind the decision is revenue, and the risk of lost sales. Almost all big studio productions are aspiring money-making blockbusters from conception. Artistic expression aside, they are business decisions, born to make money. On the other hand, *Cafuné* and *Star Wreck* were said to be released first and foremost to reach the widest possible audience.[154] They could afford to do that because there was little expectation on returns. *Cafuné* was publicly funded from prize money (about US$280,000) won at the Brazilian Ministry of Culture competition for low budget films.[155] *Star Wreck* was made with $15,000 Euros;[156] built heavily on voluntary participation and a lot of improvisation.[157]

In the words of Cory Doctorow: "The artist's enemy is obscurity, not piracy."[158] In the case of these two little-known films, this statement was particularly true. Sharing under CC was a practical measure, especially at the early stages of release; they did not have the means to spend large amounts of money on promotional advertising. The bar for financial return was set very low;[159] therefore they had nothing to lose but everything to gain in putting it out under CC.

> Most people who download the book don't end up buying it, but they wouldn't have bought it in any event, so I haven't lost any sales, I've just won an audience. A tiny minority of downloaders treat the free e-book as a substitute for the printed book--those are the lost sales. But a much larger minority treat the e-book as an enticement to buy the printed book. They're gained sales. As long as gained sales outnumber lost sales, I'm ahead of the game. After all, distributing nearly a million copies of my book has cost me nothing. - Cory Doctorow[160]

As for big studio productions, the perceived risk of lost sales from legal filesharing may seem too high. On the other hand, obscurity is less of a problem for them, and they have budgets set aside for promotional advertising. A CC licence is a tool, and should be used accordingly. Hence, at the moment, just dipping their toes into the CC pond seems like a far more attractive option to them.

Will content intermediaries such as big Hollywood studios ever take the plunge and

release an entire film online under a CC licence? Time will tell, whether they will do it or not, or even if the question itself matters. If they choose not to, others who take their cue from *Star Wreck* or *Cafuné* will. These businesses, which insist on clinging solely to the old model of content marketing, are missing out on the fact that most people will share content if they believe it is worth sharing.[161] It is how people communicate with each other in this day and age.[162] Instead of fighting the technology that makes sharing possible,[163] the industry should reconsider their business models. Creators such as Samuli Torssonen and Bruno Vianna, on the other hand, have realised the value of this sharing culture to them, and in the process have found new business models to harness that value.

Skeptics may argue that the uniqueness of the *Cafuné* and *Star Wreck*'s distribution methods have contributed to the 'hype', and therefore the returns, of these films.[164] Short of going back in time and re-releasing the same films in cinemas or on DVD without the free online downloads, it is impossible to calculate the actual effects of the decisions to release these films on the internet.[165] Likewise, it is difficult to fairly compare *Kiss Kiss Bang Bang* and *Two Fists One Heart* with *Cafuné* and *Star Wreck*. These are four vastly different films, from genres with different mixtures of crime, romance, drama, science-fiction, comedy and action, and all from different countries. However, the reality is that the producers of *Cafuné* and *Star Wreck* did make money. They clearly exceeded expectations on returns, whereas *Kiss Kiss Bang Bang* and *Two Fists One Heart* did not. The idea of releasing a whole commercially backed film online, whilst allowing others to share it under a CC licence may no longer be as far-fetched as it seems.

Conclusion

Web 2.0 technologies[166] have clearly bridged the gap between creators and their audience. Filmmakers like Bruno Vianna and Samuli Torssonen are realising the immense potential of the world wide web as a medium that allows them to connect with fans (CwF), give fans a reason to buy (RtB), whilst allowing their works to reach the farthest corners of the earth. They no longer limit themselves to traditional distribution channels, but are prepared to make their films available online under a CC licence. The CC licence, as a legal sharing tool, allows the copyright owner to retain certain rights (e.g. the right to be correctly attributed for their work, or to prevent the work from being used commercially), whilst allowing others the freedom to share the work.

Of course, whether other filmmakers will replicate the success of *Star Wreck* or *Cafuné* will depend on the quality of their work and their ability to implement the *Connect With Fans (CwF) + Reason To Buy (RtB)* formula creatively. In all likelihood, current mainstream distribution channels such as theatres and DVD sales will still be dominated by Hollywood. However, films like *Star Wreck* and *Cafuné* have shown that a film neither requires initial access to traditional distribution channels to find an audience, nor does it have to have the backing of large Hollywood studios to gain wide recognition; it can be made in the streets of Rio de Janeiro or in a living room in Tampere, released online under a CC licence. When Samuli was making his first short *Star Wreck* animation, it would have been hard to believe that years later he would have a feature-length film on DVD distributed by Universal and also have a production company.[167] Yet, he escaped obscurity and overcame the traditional barrier that existed between creator and audience.

By letting relatively unknown filmmakers or creators circumvent traditional distribution channels dominated by content intermediaries, sharing works under a CC licence allows these creators to reach their audience while maintaining a level of control over their copyright works

(i.e. explicitly reserving some rights but not all rights). Gaining an audience is no longer exclusive to large content intermediaries who are clearly advantaged in terms of finances, advertising resources and reputation. This supports a more balanced version of the conventional economic model, by decentralizing who gets to make, share *and profit* from art.[168]

Endnotes

1 Kimberlee Weatherall, 'Would you *ever* recommend a Creative Commons license' [2006] *Australasian Intellectual Property Law Resources* 4, available at http://www.austlii.edu.au/au/other/AIPLRes/2006/4.html accessed on 14 April 2009.

2 Adrienne K Goss, 'Codifying a Commons: Copyright, Copyleft, and the Creative Commons Project', (2007?) *Chicago-Kent Law Review*, Vol 82:2, 963, 995, available at http://www.cklawreview.com/wp-content/uploads/vol82no2/Goss.pdf. Note that the term "creator" is used in this article to refer to individual content creators such as artists, writers, musicians, filmmakers and photographers.

3 Séverine Dusollier, 'The Master's Tools v. The Master's House: Creative Commons v. Copyright' (2010) 29:3 *Columbia Journal of the Law and the Arts* 101, 111-112.

5 Andy Raskin, 'Giving it Away (for Fun and Profit)', *Business 2.0 Magazine*, 1 May 2004 (quoting Cory Doctorow), available at http://money.cnn.com/magazines/business2/business2_archive/2004/05/01/368240/index.htm accessed on 9 June 2009. Cory Doctorow is a science fiction novelist (*Down and Out in the Magic Kingdom* and *Little Brother*), blogger (boingboing.net) and technology activist. He has given his books away as free e-books, yet successfully sold printed copies: see About Cory Doctorow at http://craphound.com/bio.php accessed 9 June 2009.

6 Andy Raskin, 'Giving it Away (for Fun and Profit)', *Business 2.0 Magazine*, 1 May 2004, available at http://money.cnn.com/magazines/business2/business2_archive/2004/05/01/368240/index.htm accessed 9 June 2009. For example, Apple responded to the shift in the musical unit of consumption from albums to individual songs by providing a whole new way of selling music to consumers, iTunes.

7 Whilest illegal file-sharing has a major impact on the economic considerations of the sector, this article focuses on business models which manage copyright under the legitimate economy.

8 The term "creator" is used in this article to refer to individual content creators such as artists, writers, musicians, filmmakers and photographers.

9 See Jessica Litman, 'Real Copyright Reform', 96 *Iowa Law Review* #1 (2010), 7, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1474929. See also Séverine Dusollier, 'The Master's Tools v. The Master's House: Creative Commons v. Copyright' (2010) 29:3 *Columbia Journal of the Law and the Arts* 101, 115 &119.

10 See Jessica Litman, 'Real Copyright Reform', 96 *Iowa Law Review* #1 (2010), 13, available at

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1474929##.

11 The often-cited victims of illegitimate file-sharing are the music, film and computer software industries. See UNESCO, *Copyright, Piracy and Cultural Industries*, April 2005, available at http://portal.unesco.org/culture/en/ev.php-URL_ID=30635&URL_DO=DO_TOPIC&URL_SECTION=201.html accessed on 13 June 2010.

12 Although this seems to be the conventional theory, it is not the only theory underlying copyright. Creativity is a complex, multi-faceted concept, and is not easily conceptualised: see further Julie E Cohen, 'Creativity and Culture in Copyright Theory', *UC Davis Law Review*, Vol. 40, pp. 1151-1205, 2007; *Georgetown Public Law* Research Paper No. 929527, available at SSRN: http://ssrn.com/abstract=929527 accessed 29 November 2009.

13 The policy is to ensure that the public enjoys an adequate supply of expressive works: see generally Tom W Bell, 'The Standard Economic Model of Copyright', Intellectual Privilege (blog), 23 December 2007, available at http://www.intellectualprivilege.com/blog/2007/12/standard-economic-model-of-copyright.html accessed 10 June 2009.

14 In this article, the term 'intermediaries' is used to refer to content distributors such as publishers, movie studios and record companies.

15 See for example, *American Geophysical v Texaco*, 802 F. Supp. 1, 15 (SDNY 1992) ("copyright protection is essential to finance the publications that distribute" scientific articles, even though authors are not paid for them), affirmed, 60 F.3d 913 (2d Cir. 1994). Jessica Litman, 'Real Copyright Reform', 96 *Iowa Law Review* #1 (2010), 13, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1474929.

16 See for example, *Music Licensing Reform: Hearing Before the Senate Judiciary Committee*, 109th Cong (July 12, 2005) (testimony of Rob Glaser, RealNetworks, Inc., for Digital Media Assn, available at http://judiciary.senate.gov/hearings/testimony.cfm?id=1566&wit_id=4447 and testimony of Ismael Cuebas, TransWorld Entertainment Corp., for National Association of Recording Merchandisers, available at http://judiciary.senate.gov/hearings/testimony.cfm?id=1566&wit_id=4451). Jessica Litman, 'Real Copyright Reform', 96 *Iowa Law Review* #1 (2010), 13, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1474929.

17 Findings from the 60Sox Employer Survey found that over 80% of Australian Creative Digital Industry employers indicated that aspiring creatives (i.e. recent graduates and/or people with less than two years industry experience) only accounted for between 0% and 20% of all workers: Sandra Haukka (ARC - CCI) and Justin Brow, *From education to work in Australia's Creative Digital Industries: Comparing the opinions and practices of employers and aspiring creatives* (60Sox Report Volume 2, January 2010), available at http://www.apo.org.au/research/education-work-australias-creative-digital-industries accessed 19 June 2010.

18 See Yochai Benkler, 'From Consumers to Users: Shifting the Deeper Structures of Regulation Toward Sustainable Commons and User Access', *Federal Communications Law Journal* Vol 52, 561 at 564 (in the context of social creation).

19 Stephanie Woods, 'Creative Commons — A Useful Development in the New Zealand Copyright Sphere?', *Canterbury Law Review*, Volume 14, Number 1, 2008, 31.

20 Lawrence Lessig, 'The Creative Commons' (2004) 65(1) *Montana Law Review* 1, 9.

21 D Webber, 'Intellectual Property – Challenges for the Future' (2005) 27(1) *European Intellectual Property Review* 345, 346-347.

22 Note that there are other barriers (apart from reproduction and distribution) to entry into the creative content industry (e.g. productions costs) which are not the focus of this article.

23 There is no accepted or fixed definition for Open Content. Nevertheless, in simple terms, it means content that is licensed in a manner that provides users with the right to make more kinds of uses than those normally permitted under the law. See http://www.opencontent.org/definition/ accessed 20 June 2010.

24 See http://creativecommons.org.au/licences for more information about the different terms.

25 See for example, Creative Commons Attribution 3.0 Australia licence at http://creativecommons.org/licenses/by/3.0/au/.

26 The open content model of copyright licensing can be contrasted with traditional, "all rights reserved" copyright licensing practices in which the copyright owner exercises their rights by limiting the use of the copyright material to specified persons and purposes: Anne M. Fitzgerald and Brian F. Fitzgerald and Neale Hooper, (2010) *Enabling open access to public sector information with Creative Commons Licences : the Australian experience,* 12. In: Access to Public Sector Information : Law, Technology & Policy. Sydney University Press. (In Press). Available at http://eprints.qut.edu.au/29773/.

27 Ibid.

28 Open content licences, such as CC licences, are legally enforceable licences. See (in Australia) *Trumpet Software v OzEmail* [1996] FCA 560, and (in the United States) *Jacobsen v. Katzer,* 535 F.3d 1373 (Fed.Cir. Aug 13, 2008), on remand, *Jacobsen v. Katzer*, 609 F.Supp.2d 925 (N.D.Cal. Jan 5, 2009), available at http://www.cafc.uscourts.gov/opinions/08-1001.pdf.

29 See Creative Commons Attribution 3.0 Australia licence, Legal Code, clause 7, available at http://creativecommons.org/licenses/by/3.0/au/legalcode.

30 Anne M. Fitzgerald and Brian F. Fitzgerald and Neale Hooper, (2010) *Enabling open access to public sector information with Creative Commons Licences : the Australian experience,* p 20. In: Access to Public Sector Information : Law, Technology & Policy. Sydney University Press. (In Press). Available at http://eprints.qut.edu.au/29773/.

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35 See Andy Raskin, 'Giving it Away (for Fun and Profit)', *Business 2.0 Magazine*, 1 May 2004, available at http://money.cnn.com/magazines/business2/business2_archive/2004/05/01/368240/index.htm accessed on 9 June 2009; also see John Hilton, *Hard Numbers on Free Random House Books*, 6 May 2009, available at http://www.johnhiltoniii.org/hard-numbers-on-free-random-house-books/ accessed on 9 June 2009.

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37 See for example Cory Doctorow's novels (see Cory Doctorow, 'Giving it Away', *Forbes*, 12 January 2006, available at http://www.forbes.com/2006/11/30/cory-doctorow-copyright-tech-media_cz_cd_books06_1201doctorow.html accessed on 9 June 2009) and Jamison Young's music (see Kiruba Shankar, Podcast: How Musicians Can Use Creative Commons, 16 July 2007, available at http://icommons.org/articles/podcast-how-musicians-can-use-creative-commons accessed 9 June 2009).

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39 See the *Ghosts I-IV* ordering website http://ghosts.nin.com/main/order_options accessed on 9 June 2009.

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43 Mike Masnick is the CEO and founder of Techdirt, a weblog that focuses on technology news and tech-related issues. He is also founder and CEO of Floor64 (see http://www.floor64.com/team.php) and a contributor at BusinessWeek's Business Exchange (see http://bx.businessweek.com/profile/mike-masnick/mmasnick901/). See http://en.wikipedia.org/wiki/Mike_Masnick accessed on 20 June 2010.

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53 See Jessica Litman, 'Real Copyright Reform', 96 *Iowa Law Review* #1 (2010), 29, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1474929: "The detachment of copyrights from the creators who author works enhances the perception of copyright as illegitimate and unconnected with the progress of science" ; see also William Patry, *Moral Panics and Copyright Wars* (2009) 67-96, 171-75.

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Can Open Mean Terbuka? Negotiating Licenses for Indonesian Video Activism

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Abstract: Since the fall of Suharto's New Order regime in Indonesia, space has been opened up for the emergence and development of new practices of media production and distribution, such as the use of video for social change. As access to the technology for producing, distributing and watching video becomes increasingly democratised in Indonesia over this period, a spectrum of approaches to licensing are developing in response to ideology as well as economic impetus. These include the full adherence to the global norms of intellectual property rights, market-driven piracy, politically based rejection of any restrictions, and a burgeoning interest in Creative Commons.While Indonesia hosts one of the most enthusiastic cultures of digital sharing, this article argues that there is not yet a solution for the issues of copyright management that fits the Indonesian context. We examine the work of several groups who are currently active in producing social and environmental video in the archipelago. These include VideoBattle, Forum Lenteng, and the EngageMedia network.

Introduction

In Yogyakarta, in a small local shop selling T-shirts and music tapes, you come across a pile of video compact discs in striking red and black packaging. They are a numbered series of compilations of independently selected videos called Video Battle. You start to

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> *sort through the 13 boxes. Most of the pictures on the covers are instantly recognisable and thick with irony: there is a montage of all the actors who have played James Bond and a dramatic scene from Michael Jackson's Thriller. These images are so obviously in the public domain that the fact they are unattributed on the cover design is hardly noticeable. You choose number 12, with the title 'On the Ring' and an image of Muhammad Ali. Turning over the box, you see "copyleft" printed on the back. Later, while watching the videos on your laptop, you go to the Video Battle website (http://video-battle.net) and find that the discs are also sold online. You scroll down to the licensing info at the bottom of the webpage "Copyright © 2010 ((VIDEO BATTLE)) - This work is licensed under a Creative Commons Attribution-Noncommercial-Share Alike 3.0".*

Licensing can be a confusing issue for video activists in Indonesia. There is a broad spectrum of approaches to creative property rights within this domain and, as illustrated by the above example, even within groups themselves. Sometimes, international copyright law is fully adhered to. Sometimes, piracy is used as a method of distribution. At other times, activists express a total rejection of any form of control of knowledge. Increasingly, as video activists mix more with their international peers within the flourishing global digital network, they are beginning to adopt open-content licensing forms such as Creative Commons.

While Indonesia hosts one of the most enthusiastic cultures of digital sharing, this article argues that there is not yet a solution for the issues of copyright management that fits the Indonesian context. Legal terms often fail to translate the diversity of practices that exist in practical terms. Government regulation remains inconsistent to say the least. Local video activists are left stumped over the default legal implications of copyright, and the differences between large-scale distribution rights and screening rights on a local level. One sticking point is that the distinctions between individual and collective production in activist video are frequently blurred, making clear attribution almost impossible. These gaps continue to loom over video activists in Indonesia, influencing decisions over copyright approaches and, in turn, affecting distribution methods and scope.

This article focuses on the discussions of rights over content among Indonesian social justice video activist in implementing both off-line and online distribution of their work. Activist video is an important litmus test for understanding how digital culture generally will adapt licensing solutions with the pressure of globalisation. Indonesia is one example among many post-colonial countries that reveals the complexities of these issues. Video activists all over the world grapple with how the processes of production and distribution are linked to the issues of licensing.

Another reason that video activism in Indonesia is an important case study is that video has actually been instrumental as a social change tool in Indonesia. The proposition that the rapid development of media technologies is interrelated with social transformation in Indonesia is endorsed by various analyses (Lim, 2003a, 2003b, 2006; Sen and Hill, 1997) that point to how such technologies have helped mobilise dissent within the national political landscape, in particular leading to the demise of Suharto's three-decade authoritarian government. The experience of the 1998 political uprisings that brought the end to Suharto's New Order regime contributed insights for video-makers on the power of audiovisual representation and dissemination in generating socio-political changes on a mass scale. People can still remember how, during those times, the private television stations simultaneously and repeatedly aired footage of the shootings of Trisakti University students in Jakarta. These images sparked sentiments of national solidarity leading to the mass student protests denouncing the New Order regime. Also, around

the late 1990s, independently shot footage of human rights abuses in East Timor were widely televised, becoming one of the key factors in garnering international support for Timor Leste's independence (Thajib, Juliastuti, Lowenthal and Crosby, 2009). These activist genealogies in Indonesia demonstrate that approaches to copyright have been informed by a range of issues particular to Indonesia's national history. It is therefore impossible to generalise in designing solutions to the challenge of copyright there.

The evidence for these arguments has been collected by observation as well as through interviews conducted between January, 2009 and June, 2010. These were mostly carried out in person, in the Indonesian language and then translated into English, and occasionally conducted by telephone or email conversation.

In the first part of this paper, we examine the work of several groups who have emerged from this political landscape and are currently active in producing social and environmental video in Indonesia. These include Video Battle, Forum Lenteng, and the EngageMedia network. By looking at current approaches to licensing, how these approaches affect distribution, and how these activists are considering they might approach licensing and distribution in the future, we argue that this process can be read as an exemplar of an attempt to socialize "*konten-terbuka*" (open content): a localised repertoire of commons in the internet. The second part of the paper teases out some of the ways that licensing can be considered in more culturally specific contexts. We highlight the gap between the uniform global rhetoric of intellectual property enforcement and the diversity of practices that actually exists within our case studies. The paper ends with a discussion of whether more progressive ways of negotiating licensing for video activists in Indonesia can be leveraged into the commons formation amongst global networks.

Current Approaches

There is a general understanding amongst activist communities in Indonesia that copyright as the norm, copyleft as its counter paradigm, and other licensing forms currently thriving in the digital scene (such as Creative Commons) are possible alternatives. While the range of responses by video activists exists within these understandings, they are not necessarily limited to one or another definition. Many video activists see licensing as a practical experiment rather than a decision with predetermined outcomes. As such, different projects from the same group may use different licensing systems, and one project may even publicise multiple choices.

In line with their general approach to activism, in which many forms and methods are employed, such flexible views of licensing can be viewed as tactical. "Tactical" is used in the sense used by theorists and activists David Garcia and Geert Lovink, extending Michel De Certeau's (1984) concept of tactics to the field of media activism, by identifying a class of producers who amplify temporary reversals in the flow of power by exploiting 'spaces, channels and platforms'' necessary for their practices (Garcia and Lovink, 1997).

In this way, video distribution methods become hybridised and with these hybrid systems, content is often attributed multiple licenses. This is clear in the example of Video Battle, described above. Online, where it is generally accepted that content is in the international domain, a clear attempt has been made to adopt Creative Commons. Video Battle has created a video subscription channel enabling video podcasting in Miro and iTunes, as well as the ability to watch Flash video versions directly from their website, attributing Creative Commons licenses to the work streamed on this channel.

However, on the streets of Yogyakarta, where "copyright is a colonial legacy" (as a T-shirt worn by an Indonesian video activist puts it), the most tactical approach, that which is most respected, is copyleft. Video Battle discs are clearly branded with copyleft symbols and text. Video Battle has been disseminating its video compilations as disc sets since 2004 and the issues of licensing are inherently part of their creative practice. Video Battle selects and compiles five-minute videos from entries of any style in an effort to challenge preconceived "genres". The video-makers selected are encouraged to duplicate and sell copies of the compilation for their own profit. While the VCD distribution Video Battle offer is relatively limited, its open endorsement of duplication, presented as a celebration of piracy, has contributed to its recognition not only within Indonesia, but also with international audiences, including in Australia and Europe.

The strong relationship between art and broader society is still a part of many activist identities in Indonesia. While many new practices have been introduced to develop different dynamics in cultural production, it is video and digital culture projects that appear to operate on the largest and most intense scale. In the context of video, Forum Lenteng's project of AkuMassa, for example, is an attempt to construct video experiences in local contexts, viewing society as much more than a subject or an audience. Aku Massa is a series of video initiatives empowering small communities to tell their stories on video. Forum Lenteng then encourages the communities to embed their videos in a dedicated blog. Forum Lenteng, like other Jakarta-based video groups such as ruangrupa, is founded by artists. In many instances, however, the roles of artist and activist coincide to become indistinguishable. For example, artists are involved in non-governmental organisations as facilitators, creative activities are merged with community empowerment programmes, and arts organisations present socio-political video projects as part of their programs. In such situations, reaching consensus about licensing content can clearly become a challenge as projects involve a range of participants with different levels of literacy and concerns around licensing.

The gaps between those who are constantly exposed to the internet (activists, NGO workers, media professionals) and those who are not can create a cultural chasm; a local manifestation of what has been globally termed "the digital divide" (Gunkel, 2003). The AkuMassa site uses copyleft, but it is fair to say that as a wider project AkuMassa uses no licensing system at all. Files of videos generated are distributed via flash discs or VCDs and screened freely. Much more important to the participants and organisers is the generation of discussion and energy around the content than creating any restrictions on distribution. Organisers have expressed an interest in the possibilities of using Creative Commons for their projects. Activist groups such as Forum Lenteng, however, are usually under-resourced and working on licensing has not been a priority. While Creative Commons may be in theory the best option, they simply do not yet know much about its advantages. Hafiz from Forum Lenteng (12 January 2009) as well as wok the rok from Video Battle (interviewed 8 January 2009) both identified copyleft as the "activist alternative" to copyright.

As one example of activists that are much clearer in their approach to licensing, using exclusively Creative Commons, we look at the practices of EngageMedia. EngageMedia originates in Australia. However, it also has an Indonesian base in Jakarta. The primary focus of EngageMedia's activities is the EngageMedia.org video-sharing site. All videos on the site use open-content licenses. Downloading for off-line redistribution is encouraged. This means to upload videos to the site, users must agree to a CC license. EngageMedia General Manager, Andrew Lowenthal, however, expressed doubts as to whether all users consciously agree to these licenses. 'Because it is the culture of online agreements and because the licenses are in English, many may simply tick the box.' (Andrew Lowenthal, 26 April 2009)

The Creative Commons system employed by EngageMedia is seen by the organisation as a step towards addressing the barriers to clear licensing faced by social-justice video activists in a period of transition from off-line to online distribution of video. The fact that the organisation is a regional network with local bases is very significant to their decision to use Creative Commons. With a focus on the distribution of activist content worldwide, clear and open licensing has been a priority from the inception of the network, one that takes precedence over flexibility or irony. 'We are working on regional and global scales as well as local. So creative commons is important to us, to our funders, and to our users around the world, although it may not yet be important to Indonesian activists. We want to ensure that when Indonesian content leaves Indonesia it carries a signifier that says "share me" (to encourage further distribution) and also carries the protection of CC for that sharing.' (Andrew Lowenthal, 26 April 2009).

Creative Commons is utilised by a handful of online information producers in Indonesia, including many bloggers and website administrators such as yesnowave.com and kunci.or.id. However, there are no local groups who express such a strong commitment to Creative Commons, or even a conviction about the need for clear licensing. In our interview with Wok the Rock of Video Battle, he strongly criticised the implementation of any systems of intellectual property rights that regulate ownership, he feels that "these powerful mechanisms overstate the distinct position between those claimed as key cultural producers and those who are weaker and functioning as consumers of culture" (Wok The Rock, 20 January 2009). Bandung-based documentary distributor, KoPI permits any form of copying of their work by tagging their DVDs with copyleft labels as part of their viral distribution scheme.

On the opposite pole, there are some groups, such as Gekko Studio and Beoscope, which uphold traditional copyright approaches. Beoscope, founded in 2008, runs a website where users pay to upload video. Beoscope also undertakes off-line activities similar to activist groups, such as organising video-production workshops for beginners. In addition, Beoscope assists those unable to upload video directly on the web by arranging the physical or postal delivery of video. Gekko Studio also distributes documentary but focuses on environmental issues.

Kawanusa, which works with village communities, particularly in Bali, to organise screenings and festivals, tends to ignore the issue of licensing altogether. Kawanusa organiser, Yoga Atmaja stated "somebody else can take care of the copy rights issue if it is that important to them. Our hands are already tied up with day to day work with our grassroots constituents". (Yoga Atmaja,14 February 2009)

However, within this spectrum of responses, many activists are also looking for alternative forms to the existing copyright system that still protect the rights of video-makers. Jakarta-based Konfiden, for instance, came up with its own rights management scheme, which it called "cultural rights". According to Konfiden, this was established so that video-makers can understand their rights without having to submit to the mainstream copyright regime. Without major backing, however, it will be difficult to get an entirely new rights initiative up from scratch, particularly one a critical mass of people will agree on.

However, in discussions regarding the future of copyright and licensing among video activists in Indonesia, Creative Commons is brought up as a possibility. Several organisations are questioning how they can share content in a different way that is more in tune with their political aims. Formed in 2006, Kampung Halaman, based in Yogyakarta, works with youth living in what they term the "transitional districts". "Transitional" refers to areas located between urban

centers and/or communities undergoing socio-economic changes. For Kampung Halaman, the increasing demand from commercial video sites for participatory videos prompted a focus-group discussion in December 2008 to discuss the possibility of legally employing Creative Commons in Indonesia. Creative Commons has not yet been imported to Indonesian law, though there are groups working toward this.

In interviews for this study, some activists raised an important issue around the public perception of Creative Commons in Indonesia. There are activist video makers and some of their audiences who view Creative Commons as being imposed from outside and even part of the imperialist project, which makes it less appealing to many of the research subjects. Another key limitation raised in interviews is that Creative Commons brings the system of copyright with it, relying heavily on an established legal framework, which Indonesia lacks.

Activists interviewed also raised concerns about the scope of rights covered by Creative Commons. Such confusion may arise from the fact that there seems to be very little clear explanation of how Creative Commons or other systems actually work in Indonesian. Our observations are that Copyleft is often interpreted as meaning "in the public domain" (i.e. no copyright), but Copyleft is actually based on copyright. While the intention of Copyleft may be open licensing, its implementation is often vague. Clarifying how alternatives could work in the public domain would be an obvious first step to improving the uptake of such a licensing scheme. The role of Creative Commons, or any other alternative licensing scheme, must be viewed as a re-establishment of interactivity and communication between creators and users. If implemented as merely a replacement of the current copyright system, or a filling for the lack of a copyright system, Creative Commons cannot succeed.

Framing the Problems with Copyright in Indonesia

To delineate the cultural encounters within the legal frameworks that structures the modes of licensing and distributing creative works and to unravel the kind of tensions that it produces amongst video-activists in Indonesia, we identify at least three interrelated issues underpinning their ambivalent responses: (1) the practice of commons in Asia, (2) the capricious institutionalisation of IPR in the governmental agenda and (3) the ubiquity of piracy as the mode of knowledge distribution. Pivotal to these approaches is the deployment of a developmentalist logic as counterargument to the establishment of copyright, perpetuating yet another example of the economic and political cleavage between developing and developed words.

Practice of Commons in Asia

Asian nations have historically been positioned as recipients of licensing systems, both open and closed. Processes of colonisation and globalisation have introduced both mainstream and alternative ideas from the northern hemisphere. However, in the application of such systems in Asia, many problems are inherited, one of which is the diversity of practices that already exist and continue to unfold in local terrains. These practices result from particular historical trajectories, trajectories that collide and intersect with international ideas.

One logical place to begin in tracing some of the roots of indigenous ideas of property rights is in the management of tangible property, particularly land; the ever-dispersing cultural products that flow across cultures and geographic locations; and the massive informal flow in "Asian" knowledge production (Liang et al., 2009). Without falling into the trap of crude cultural relativism on "Asian values", which reifies the exhaustive tension between the West

and the East, we echo the words of Liang et al. in his collective monograph *How Does an Asian Commons Mean* by attending to local historical tensions in reading today's ambivalent responses to property issues.

Land, forest and natural resources management that evolved from pre-colonial (Lombard, 1990) to modern times (see Tsing, 2005 for in-depth discussion on this particular issue) in different local contexts across what is now Indonesia raise important questions for copyright. The perpetual confusion between the notion of privately owned property and the notion of publicly used property has meant that determining and defending legal ownership has required an enormous amount of attention. Many indigenous modes of property exist that do not fit into imported legal definitions. This has often manifested in violence, involving the dispossession by those in power, through the enforcement of property regimes as well as corrupt and militant practices, of marginal communities that had been nurturing a sense of belonging to certain lived, common grounds (such as forests, city public spaces, "wastelands" etc.).

Another factor that reveals the incompatibility of copyrights within local settings is the not codified and unified *Adat* norms (customary law) prevailing in the everyday life of many Indonesians. Under this norm, ownership in intellectual works or inventions is unknown. *Adat* does not allow individual rights of possession to override principles of the public interest and the social function of goods. The focus of *adat* law protection is not on individuals, but for the benefit and interest of communities or the "public good" (Kusumadara, 2006). The living practices of the commons can also be traced from the disordered flow of literatures, folklores, performances and other cultural products to its most recent digital forms. One example regards the intensifying conflict between Indonesia and Malaysia, which both claim exclusively as their national heritage, what are actually shared cultural products and practices, such as *batik,* a traditionally crafted cloth, and *dangdut,* a music and performance style.

All of the above illustrations pointed to the intricacy, if not impossibility, of circumscribing the boundaries of culture under the terms of intellectual property. The free movement of cultural artefacts in Asia can also be situated within copy-culture and non-legal distribution networks (such as piracy). These operate as modes that enable knowledge production in space dominated by a scarcity of access to such resources.

With an understanding of these issues, activists become more susceptible to the notions of collectivity within their production. With the increasing application of "participatory video", where video-makers collaborate with existing communities, activists are increasingly aware that communities are in fact the "owners" of the information produced. As with AkuMassa, clear agreements about what this actually means for distribution are still rare. The still limited availability of technology resources, mainly due to financial constraints, also often prompt these activists to improvise by sharing whatever tools necessary to achieve their goals. One final example is the widespread "borrowing" of images, sounds, and representations either among activists themselves or from other resources (sometimes even by breaching copyrighted works), that are conducted in order to tactically ensure that the message they wanted to communicate can reach its target audience. The collective nature of these kinds of works complicates the attribution of ownership and calls for a more versatile licensing platform that could facilitate the employment of collaborative approach in a video production and distribution.

Contingencies in Copyright Enforcement

The term "*hak cipta"* (Indonesian word for Copyright, but literally meaning "creating right")

was created in 1951 in Bandung, as a part of "*Kongres Kebudayaan Indonesia*" (Riswandi, 2009). At this conference, cultural artefacts were viewed as co-modifiable products for the construction of national identity, as they were throughout the formative years of the newly independent Republic of Indonesia. The term was invented as a substitution of "*hak pengarang*", a derivative of the Dutch legal product called *Auteursrecht* (or "author's right"). As the former Dutch-Indie colony, Indonesia inherited its membership at the Berne Convention for the Protection of Literary and Artistic Works from the Dutch coloniser which has been a formal member since 1912.

However, in 1958, the Indonesian government, under the then prime minister Juanda's cabinet, withdrew membership from the treaty in order to "develop the national identity of the newly born country without the restriction of knowledge, particularly through translated works" (Oppusunggu, 2009). This decision, in turn, unleashed a massive surge of cultural production, particularly in the local popular music industry. The music scene in Indonesia continued to thrive from the 1960s through the 70s via various modes of copying and repurposing of Western songs into Indonesian. So great was the level of commercial piracy in the cultural industry, that American folk musician Bob Geldof slammed Indonesia in the media after learning that his "Live Aid Concert for Ethiopia" had been distributed in the international market with a "made in Indonesia" label whereas he himself never recorded there (Sasongko and Katjasungkana, 1991).

Entering the 1980s, foreign pressure for the state to ratify the international law on copyright escalated. It was marked by the US government's petition that threatened to remove Indonesia's exporting privileges if there was no actual enforcement in the field of intellectual property law. This was then responded by the state (from Suharto's cabinet up to now) by the most rapid turnover in the country's legislation history. From 1982 to 2002, the Indonesian Copyright Bill had been amended three times, all due to foreign pressure, particularly the US as one of the main players in the world's IPR-based industry (Haryanto, 2009).

In reality, however, the promptness of actions for copyright enforcement only holds up on paper. Despite the state's agreement with various copyright protection schemes such as the *Universal Copyright Convention* and the *Agreement on Trade Related Aspect intellectual Property Rights* (TRIPs) with the World Trade Organization and including a renewed membership with the Berne Convention in 1997, its implementation is fraught with contradictions and vulnerable to internal power play. Under the New Order regime, for instance, crackdown on piracy is often convoluted with an agenda of political censorship. The government manipulated the laws in its campaign to prevent the distribution of pirated videocassettes in the mid-1980s, claiming the intention to protect Indonesian cultural identity from "unwanted foreign influences" (Video Base, 2009). There remain serious incongruities between what has been legislated nationally and what is being implemented in local governance level. Emblematic to this set of problems is the development-oriented justification saying that the widespread diffusion of IPR is the most effective way to distribute knowledge that will eventually lead to economic development and power (Mertha, 2006, p. 24). These imperial and (post-)colonial turns to copyright enforcement become a performative discourse in pointing towards the gap of knowledge-production in which piracy becomes one of the main solutions.

Such relationships warrant a more complex discussion of intellectual property than one focusing on just the legal aspects. Various historical strains infuse the new frictions between claims of ownership and use of creative property and the general production of culture.

More Issues around Piracy

As well as collective production, copying and reusing are common practices that have lead to the establishment of "piracy" as a local mode of knowledge production and distribution in Indonesia (Juliastuti, 2008). Under the ambiguous radar of the Indonesian legal system, piracy of video content has grown to become an important sector of the economy where businesses based on piracy and those based on "legitimate" practices build an interdependent relationship. In the context of many Asian societies, this is true. Indian media observer Ravi Sundaram (2001, pp. 96) argues that there is a certain readiness for piracy in places where the creation of new techniques as well as 'breaking the laws of global electronic capital' are required to generate access to information and power.."

There are more than just a few players benefiting from the rampant piracy of video content in Indonesia. Besides commercial distributors, many independent film-makers "borrow" footage or techniques from bootlegged VCD/ DVD films. Since its inception, Video Battle has encouraged their video compilations (which often include videos that have directly appropriated copyrighted material) to be freely copied. The ninth round of Video Battle is branded with a jolly roger. Ruangrupa branded their 2005 "OK.Video" festival with the theme "piracy" as a way to reconsider piracy as a form of subversion. But how can existing networks formed around the distribution of pirated video be harnessed for the distribution of social-change video?

Piracy was espoused by some video activists interviewed as being integral to the expansion of off-line distribution channels. The viewing of pirated activist videos is still limited to the fringes of society compared to the mass piracy and distribution of commercial film and music in Indonesia. We found no examples of video activists collaborating with these networks or even researching their methods.

Other activists interviewed worry that the piracy situation in Indonesia deters ongoing plans for the sustainable distribution of alternative video commercially. For audiences of alternative video, piracy is already the norm. To change their patterns of consumption to one that respects copyright in any form is next to impossible. Another consideration for these activists is that, if distribution occurs through piracy, it is impossible to measure either the quantity or character of audiences, so it is difficult to be responsive as a producer.

The complacency surrounding copyrights enforcement along with its imperial nuances and its convolution with the outbreak of piracy at the local terrain have continued to loom over video activists' decision to appropriate normative as well as alternative property rules in distribution. So what are the available options for developing a licensing system that enables fair distribution and supports a democratic dissemination of information? What is the most pertinent attribution mechanism for video works that strive to extend a social justice agenda? Departing from the reflective engagements between the generation of video production within progressive social movements and the structures of attribution working at the local, regional and global levels, some intelligible alternatives can be teased out as strategies for embarking future potentials in realising a licensing scheme that is open, democratic, and able to respond to continuing cultural challenges.

Conclusions

Given the complexity of issues outlined above, it is not surprising that such a range of approaches to licensing digital content exist in Indonesia, even just within the realm of video activism. What becomes clear as we begin to map the current situation is that there is a strong future for Creative

Commons in Indonesia. However, what is required to foster this future is a global system that is sensitive to local dynamics. "Organic" initiatives to raise awareness about Creative Commons need to emerge from activist communities that will actually use the licenses. Legal clarity is essential, but such clarity must be extended to include all the cultural issues raised in this paper, whether they relate to digital or non-digital forms. Also necessary are models of participatory approaches in other developing countries. While examples such as EngageMedia are helpful, they are limited by their first world origin. In implementing Creative Commons, Indonesian activists need to look to Malaysia, the Phillippines, South America and other places that share colonial histories.

The barriers to clear and open licensing of digital content in a country like Indonesia, where tourists buy pirated DVDs of new releases on the side of the road for less than USD $1, are immense. To establish a real grounding in the Indonesian legal system, Creative Commons needs mediation by lawyers, a cost that most activists cannot afford.

Language is also a challenge. Not only is a lot of translation from English terms required, the process of socialising Creative Commons requires using familiar, day-to-day languages as well as formal Indonesian, so that people understand the legal definitions of Creative Commons as well as its possible applications. There is already a high level of public disenchantment with anything that has to do with legal systems due to the traumatic level of corruption and nepotism during Suharto's time. Thus Creative Commons can be perceived as not only imperial (due to its western inception), but also ineffectual (in the face of a long history of corrupting power play in the judicial system).

Despite these challenges, Creative Commons is showing itself to be a real way for Indonesian video activists to participate in a global flow of culture. During the writing of this paper, AirPutih, an important activist organisation that works with all the groups mentioned thus far, has changed to Creative Commons licensing. Facebook, which has more than 22.4 million users in Indonesia (Morris, 2010), now has Creative Commons options for content. Video Battle, whose work opened this paper, is invited to an increasing number of international festivals and screenings, including Next Wave in Melbourne (2010), Oslo Screen Festival (2008), and the Directors Lounge Media Art Festival (2009) in Berlin. Even if Video Battle been able to experiment with licensing concepts until now, this global participation will demand much clearer definitions of how their content is licensed.

The evidence presented in this paper clearly illustrates how Indonesian video activists' choices of license and attribution are tactically related to options for distribution. We have also argued that Indonesian legacies of particular historical trajectories and overlapping regimes of property rights (ranging from management of natural resources to customary law) inform the contemporary practices of video activism. As licensing greatly affects how content can be distributed, effective distribution in a digital age requires alternatives to traditional copyright. In the future, debates around copyright issues will intensify in Indonesia, hopefully encouraging the development of open-content practices in the digital fields that can coexist with collective cultural production methods.

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Interview List

Name	Date of Interview
Akhmad Nasir (Combine)	6 January 2009
Dian Herdiany + Sisilia Maharani (Kampung Halaman)	7 January 2009
Wok the Rock (Video Battle)	8 January 2009
Budi Satriawan + Agus Nur Prabowo (Etnoreflika)	9 January 2009
Hafiz (Forum Lenteng)	12 January 2009
Lexy Rambadetta (Offstream)	12 January 2009
Alex Sihar + Agus Mediarta (Konfiden)	13 January2009
Sofia Setyorini + Mia Indreswari (InDocs)	13 January 2009
Ade Darmawan + Ardi Yunanto (RuangRupa)	13 January 2009
Ridzki R. Sigit (Gekko Studio)	15 January2009
Dimas Jayasrana & Lintang (The Marshall Plan)	16 January 2009
Ariani Dharmawan (VideoBabes)	17 January 2009
Wimo A. Bayang (VideoBattle)	20 January 2009
Maulana (Beoscope)	21 January 2009
Firdauz (KoPI)	30 January 2009
Rizky Lazuardi (Importal)	01 February 2009
Yoga Atmaja (Kawanusa)	14 February 2009
Aryo Danusiri (Ragam)	22 February 2009
Ariani Djalal (Ragam)	03 March 2009
Fendry Ponomban + Rahung Nasution (JAVIN)	24 April 2009
Maruli Sihombing (UPC)	25 April 2009
Andrew Lowenthal	26 April 2009

Cooperation and Competition in Open Production

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Abstract: Implied in concepts such as social media, social production, participatory culture, etc. is that value creation on the social web is founded on cooperation, downplaying the obvious role played by competition and rivalry. This paper is an attempt to theorise the relationship between cooperation and competition through Rene Girard's theory of mimetic desire. The claim of the paper is that the infrastructure and interfaces of the social web functions as mimetic machines, extracting value from both cooperation and competition. The first part discusses the importance of cooperation and competition in immaterial production by engaging with theories from autonomous Marxism and Rene Girard respectively. The two following parts discuss YouTube's business model and how the site structures participation through its algorithms and interfaces. In the fourth part the theoretical framework is used to develop an interpretation of YouTube's Partnership program through an analysis of a number of video clips that express discontent with the functioning of the site – a genre of video clips that are usually sidetracked in the literature. Finally, the paper suggests that the sentiments expressed in these clips should not be seen as exceptions but as constituting the very core of participatory culture as we know it.

Introduction

Implied in concepts such as social media, social production, participatory culture, etc. is that value creation on the social web to a large extent is founded on cooperation, downplaying the obvious role played by competition and rivalry. An ambivalence that Christian Fuchs has pointed out is present both in the Internet architecture itself, and in post-Fordist forms of organisation (Fuchs, 2008). Matteo Pasquinelli (2008) has also highlighted the competitive aspects of the immaterial economy in a chapter aptly named "Immaterial civil war". The contribution of this paper is the theorisation of the relationship between cooperation and competition through Rene Girard's (2005) theory of mimetic desire. The claim of the paper is that the infrastructure and interface on the social web function as *mimetic machines*, extracting value from both cooperation

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and competition.[1] This is exemplified by the video distributor YouTube, foremost by the company's Partnership program which invites users to share the revenue that their content generates. Although the slogan of the website is "Broadcast yourself", the user experience is watching other people broadcasting themselves, which is what the theory of mimetic desire points at: the desire to be seen is not natural, but generated by other people's desire to showcase themselves.

The paper is divided into four parts and a conclusion. In the first part I discuss the importance of cooperation in different modes of production, by engaging with the theories of Michael Hardt and Antonio Negri and Paolo Virno respectively.[2] I also introduce Rene Girard's theory of mimetic desire as a complementary take on these questions. The second part of the paper gives the necessary political-economical context for the analysis and an outline of YouTube's business model. In the third part I discuss the structure and algorithms of the social web with YouTube as the guiding example, and in the fourth part the main argument of the paper is developed. This final part of the paper consists of an analysis of the practices of trolls and haters as well as clips from video-makers that express discontent with the functioning of the site: a genre of video clips and a set of practices that are often sidetracked in the literature. In the conclusion I suggest that through the perspective of mimetic desire these clips should be seen as constituting the very core of participatory culture, rather than as deviant exceptions from the norm.

Mimetic Machines

In this section I will develop a theory of Web 2.0 as constituting a mimetic machine. This concept is intended to capture the fact that the technical assemblage that enables the valorisation of open production is basically a machine for producing value from mechanisms and processes of imitation. This imitation takes two different forms: cooperation on the one hand, and competition, rivalry and conflict on the other. The first form is relatively well understood, while the other has gotten relatively little attention and will be developed further with the help of the case study.

In their book *Commonwealth* (Hardt and Negri, 2009), the authors are trying to map out what they refer to as biopolitical production: a form of production whose goal is not the industrial manufacturing of goods, but social relations and forms of life. Hardt and Negri claim that the organisation of biopolitical production poses a number of problems for capital, since this form of production is particularly resistant to the techniques for measurement and control that are successfully applied to industrial production. The value in biopolitical production shuns every attempt to measure and conceptualise it. Hardt and Negri describe it as such: "Biopolitical products, however, tend to exceed all quantitative measurement and take *common* forms, which are easily shared and difficult to corral as private property". But what is actually intended with this statement? Do not all forms of neoliberal governance aim at rationalising, measuring, and auditing production in relation to set goals, regardless of whether they have to do with material or immaterial production (e.g. Rose, 1999)?

In order to understand Hardt and Negri's argument it is useful to pay regard to the role of imitation, mimicking, copying, or mimesis, in all forms of biopolitical production. Paolo Virno (2008) develops an argument in his essay *Mirror neurons, linguistic negation, reciprocal negation* that is helpful here. Modern brain science has confirmed the old hypothesis that humans are connected to each other in ways that precede language. A mechanism in the brain, called mirror neurons, makes it possible to understand each other through imitation on a neural level. When

someone performs an action in front of another human, this triggers neural activity in the same area of the brain in both persons. According to Vittorio Galese, whom Virno quotes, it is this imitation that forms the basis for interpersonal relations. With the help of the mirror-neurons a "we-centered room" (ibid., p.178) is created, that is shared between the participants in an activity.

Scientists have also proposed that it is these mirror neurons that form the basis for our ability to learn things from each other (Rizzolati and Craighero, 2004). When one sees someone else perform an action – speaking, writing, singing, etc. – this activates the brain neurons. In a way we learn by copying others' behaviour, and mirror neurons are one possible explanation for such learning processes. This means that biopolitical production does not only produce private knowledge, but also common knowledge. When we participate in processes that aim at producing value from immaterial products we cannot *not* imitate or copy the knowledge that is thus produced. Since our capacity to imitate, our mimetic ability, is a crucial component in biopolitical production, one way to describe this kind of production is as a value producing mimetic machine.

This also means that all biopolitical production has a basis in cooperation, which is one of Hardt and Negri's other arguments. In contrast to how work is organised in a factory, cooperation in biopolitical production is not enforced by capital. It is rather something that precedes and is implied in all immaterial production.[3] This interpretation leads to the conclusion that the basis for the production of value in biopolitical production is outside of the direct control of capital, and because of this inability to control, capital must find other ways to intervene and modulate the production process. This paper argues that one way to do this is to organise production around competition rather than cooperation, and that rivalry as a form of control can also be seen as bound up with a mimetic understanding of biopolitical production.

This second way of conceptualising mimesis is present in Rene Girard's theory of mimetic desire (Girard, 2005). According to Virno's interpretation of the results of neurologists, we can understand others' joy, sorrow, and desire through the inter-subjective room that is opened up by communication on a neural level. According to Girard, however, mimesis is not only a source of learning and insight but also of conflict, because through mimesis we not only learn *about* the other's desire, but also *to desire* what the other desires. Desire for Girard has a triadic structure, and is always mediated through the desire of others.

Wolfgang Palaver (2000, no page) notes that: "As long as our mimetic desire is oriented towards non-exclusive goods like learning a language, imitation is peaceful and productive. But if the access to an object is exclusive (social positions, sexual objects, etc.) the inevitable result of imitation is rivalry, conflict and violence". Andrew Feenberg discusses Girard's mimetic desire in relation to economic theory and notes it as a starting point for a critique of the common assumption that desire relates to something that is inherent in objects themselves. A position that can be used to reject some of the founding beliefs of economic science: "the belief that scarcity is a natural phenomenon, the belief that consumer behaviour can be derived from competition for a falsely hypostatised substance called 'prestige'" (Feenberg, 1988, p.136).

Feenberg and Palaver both point out that scarcity is a precondition for mimetic desire to lead to rivalry, but also that scarcity is not a natural phenomenon. What does this mean for the present discussion? Proponents of the position that digitalisation means an end to a society marked by scarcity usually point out that copyright enforces a regime of scarcity on goods that otherwise would have been abundant (Lessig, 2001). Among other things this is what leads

them to advocate the borrowing, appropriation, and remixing of participatory culture. In spite of this optimism, however, open production and participatory culture are marked by another form of scarcity; the scarcity of attention in the so-called attention economy (Pasquinelli, 2008).[4] With Girard's theory we can however also say that this economy of attention is not a natural phenomenon but one mediated by the open and networked structure of the social web. The desire to be seen, to gain the attention of others, is a desire that is created under certain circumstances. It will be argued that openness – the enlarged possibility to partake in cultural production – leads to a heightening of the mimetically induced desire for attention, and that consequently biopolitical production is equally dependent on conflict and competition as cooperation.

Another interpretation of the attention economy would be that there is nothing specific about this desire for attention on the social web, but that today the search for recognition and status is socially and ideologically accepted to such a degree that it is almost ubiquitous; a consequence of a celebrity culture that has taken grip on the whole of society (Rojek, 2001). In this interpretation the desire to be a YouTube star becomes a sub-phenomenon and YouTube yet another channel for this culturally mediated valorisation of attention. If we are satisfied with this interpretation, however, we miss the specific form that this desire takes in social media. What the theory of Girard provides is a possibility to discuss the specific contribution that the open architecture, the ranking, sorting, and linking-system, gives to the desire that runs through the practices on YouTube.

Yet another interpretation would be that the rivalry described in this paper is simply an effect of the convergence between the attention economy and the real economy; thus the popularity contest comes from the fight over revenues from the YouTube economy. What we see is then nothing more than the constant fight over limited resources such as money (cf. Pasquinelli, 2008, p.77). This would however lead us to a full-scale rejection of the premises of participatory culture and social production. If we want to try to think through the premises that are assumed by the proponents of the web's socialness, we have to hold on to the fact that we somehow are facing an immaterial economy – that in the first instance is not characterised by material scarcity or motivated by material rewards such as money. If we want to assume this and still theorise the relation between competition and cooperation the triadic structure of desire is one way to do this.

Advertising, Users, and Platforms

Before I use the theoretical toolbox that I have developed above to analyse YouTube's partnership program I also need to put YouTube in a context and address the political-economic framework which structures YouTube's business model and its mode of operation.

Google acquired YouTube in 2006 for 1.65 billion US dollar at a time when it was estimated that the site owned 46 percent of the market for online video (La Monica, 2006). But already the year before the company had received an investment of 3.5 million dollars from Sequoia Capital, one of the most well-known venture capitalists within the industry. Both these transactions show that from the start the priority for YouTube had to be to find a functioning business model for the platform. At the same time the company has never stopped to communicate that it is the users who are their number one priority (Wasko and Erickson, 2009). The announcement that Google was buying the company was delivered in a clip on the site in which the founders spoke directly to users:

> Thanks to everyone of you who have contributed to the YouTube community. We

> wouldn't be anywhere close to where we are without the help of this community … The most compelling part of this is being able to really concentrate on features and functionality for the community … We're definitely keen on just reorganizing our efforts and energy back into building up the community and resolving these problems that you guys have been having (YouTube 2006).

The ambiguity in this message did not pass unnoticed by the site's users, who in turn posted clips with an ironic twist that commented on the fact that the talk of community increased proportionally with the economic value of the site (eg. Re: A Message from Chad and Steve, 2006).

After Google's purchase new initiatives were launched in order to make the site more profitable. One of those was a fingerprint system called ContentID which is meant to spot copyright material that is being uploaded to the site. When copyright material is detected right-holders can choose to either remove the material or to join YouTube's Partnership program, profit from advertising shown in relation to the clips, and share the profit with YouTube. This practice has managed to harness user habits of uploading large quantities of copyright material, and at the same time to provide opportunities for selling advertising space since advertisers generally prefer to advertise next to professional rather than user-generated material.

Advertiser reluctance to advertise next to user-generated content has always been a problem for the Web 2.0 platforms, since user-generated content varies in quality and may be inhospitable to commercial messages (McDonald, 2009). This has meant that YouTube has only been able to sell advertisements next to a small percentage of the clips, at the same time as the costs for broadband constantly increase with the steady flow of new videos.[5] This problem has lead some to speculate that similar services that specialise in professional content might fare better than those who go for user-generated content (Manjoo, 2009).

Andrejevic (2009) claims that this means that YouTube has to a large extent become an outlet for Hollywood instead of being a place for amateurs to show off their creativity. To some extent this is correct, but at the same time YouTube has also tried to recruit users to produce material that is suitable for advertisers, primarily by extending the Partnership program to also include 'amateurs'. The company now claims that: "As YouTube has grown up it has become a protected and responsive place for any campaign" (YouTube, 2009, no page). This 'protected' environment includes both the increased stream of professional content and content produced by 'regular' users.

Structures for Participation

How is participation structured by the YouTube platform? One central and important structure is found in the organisation of various competitions, which has been a recurring feature YouTube has utilised to encourage increased participation, and to encourage users to produce content of higher quality.

The first contest, YouTube Underground, was announced in September 2006 and was directed towards musicians, encouraging them to upload videos with personally composed music. Keeping in line with the ethos of the site, the winners were elected by the users, who were given the opportunity to vote for their favourite. Among the prizes were equipment from the guitar manufacturer Gibson, a trip to New York, and an appearance on a morning TV-show. After YouTube Underground other contests have been launched, such as comedy

contests (YouTube Sketchies), short film contests (Project Direct), and the YouTube Scholarship Competition, in which the prize was a scholarship for a film school. Furthermore, there are also the recurrent YouTube Awards in which users are allowed to vote from a number of selected videos for the best video of the year.

Although interesting, these contests are not important by themselves, but by virtue of the fact that they illustrate in a very clear and straightforward manner how the social web works as a whole. In this sense they serve metaphoric purpose for my argument, since the structures that are used in these contests are functionally analogous to the structures that are used to sort, rank, and valorise the sum total of the content on YouTube.[6] The argument is thus that these contests are not exceptions from YouTube's regular functioning – which has been a recurring critique of them – but are only a special case of the underlying logic of the social web.

There is, however, one difference between these organised contests and the structure of YouTube, and the social web in general, that is crucial for my argument. In the competitions a final ranking is achieved, a ranking that is beyond dispute, and which consequently puts an end to the competition. The ongoing flux of social production elsewhere on the site constantly avoids such closure, a decisive point which I will come back to in the next section of the paper.

The structures for sorting and ranking on YouTube follow, with some exceptions, the schema identified by Jill Walker Rettberg (2009) where clips are organised temporally, geographically, socially and semantically. On the first page we find an editorial ranking and an algorithmic selection.[7] The algorithmic selection shows the most popular clips within a number of selected categories: entertainment, music, sports, news, politics, etc. The editorial selection is called Featured content, and can include everything from content produced by amateurs to professional material from YouTube's partners. The search function sorts clips according to popularity, number of views, and recency. In the sub-menus one also finds sorting tools that reward clips that have attracted the most discussion; attracted comments from a large number of users; been marked as favourites; become well-known from the web; and are climbing in popularity on the site.[8]

Although we recognise the structure of YouTube from a number of information systems: from web magazines to academic publishing systems that rank articles after the number of citations, the institutional context is markedly different in the case of the open innovation systems on the Internet. The relative security that comes from being employed means that competition is not as prevalent in the former contexts. The frequency with which mechanisms for sorting and ranking recur on the web also means that these tend to become backgrounded; the specific meaning that these mechanisms have on sites for user-generated content thus become less obvious. An ordinary user perceives them as helpful navigational tools, but for the small group that produces material they become measures of success. In a media environment that is about expressing yourself in front of an audience – to broadcast yourself – these structures form a hilly terrain with steep slopes that can be very difficult to climb.[9]

Since popular clips are promoted by the site, these structures work according to a principle of positive feedback; popularity leads to visibility and the chance of spreading that popularity. Each clip is consequently competing against constantly approaching entropy, something which is not the least obvious in the temporal structure of the site. A clip might be popular today, but will it be as popular in a week, or in a month? The constant influx of new videos means that every clip is doomed to eventually drop to the bottom of lists, which is made obvious through the design of the interface. The first page presents only the most popular clip from a given day,

but there is also the possibility of looking for the most popular clips from the preceding week, month, or year. But as the user widens the scope of the search the number of clips and the competition between clips also increases. The only way to counteract this increasing entropy is to constantly produce new clips and hope that some of them will rise to the top, only to fall once again.

Furthermore, YouTube has provided its users with tools for measuring their popularity. With the help of the tool Insight the company hopes that users will: "learn how to create more compelling content that best engages the audiences you want to reach" (YouTube, 2008a, no page). Insight gives users detailed information about who is watching and how they watch. It also makes it possible to "delve deeper into the lifecycle of your videos, like how long it takes for a video to become popular, and what happens to video views as popularity peaks" (YouTube, 2008b, no page). The tool gives enough details to analyse which parts of the video yield higher activity and at which parts users tend to leave the clip, which is referred to as 'hot' and 'cold' sequences. Insight accordingly gives rich enough information for users to not only reflect over the choice of subject but also over the dramaturgical aspects of the production. The tool is marketed as a way to: "increase your video's view counts and improve your popularity on the site" (YouTube, 2008b, n.p.).

Despite YouTube's efforts to find structures for participation that foster certain kinds of creativity, problems have continued with advertiser reluctance to advertise next to user-generated material. This has arguably led to the launch of the extended Partnership program in 2007. The program invited users who "have built and sustained large, persistent audiences through the creation of engaging videos [that thus] has become attractive for advertisers" (YouTube 2007, no page). This meant that 'ordinary' users now were given the same rights and possibilities that media companies already had and were now able to reap financial reward from the attention their clips generated.

Partnership, rivalry and social production

As stated, this paper argues that mimetic rivalry and competition is central to the structure of the YouTube platform and its Partnership program. To support this argument we must be able to observe this on the site, a fact that, unsurprisingly, is frequently noted in the literature. Burgess and Green (2009, p.96) comment that the rivalry is so widespread that it has become a natural part of the community. As they describe, "the apparently anti-social communicative practices of trolls and haters have already become normalised in the cultural system of YouTube, at least for the most popular videos." Furthermore, following Lange's (2007) ethnographic observations, they claim that:

> dealing with the 'haters' – negative and often personally offensive commenters – is part of the YouTube experience for those who participate in YouTube as a social network … Learning how to 'manage' trolls, both practically and emotionally, is one of the core competencies required for effective or enjoyable participation (Burgess and Green, 2009, p.96).

Strangelove's (2010) video ethnography makes essentially the same observation. Apart from the literature, YouTube also acknowledge this problem with their numerous site updates directed towards giving users the possibility of protecting themselves from unwanted comments and other forms of unwelcome behaviour. YouTube has probably spent more energy on fixing this problem than taking care of the prevalence of unlawful copyright material on the site.

The occurrence of hateful behaviour is, however, almost always explained away in favour of the dominant community frame. Strangelove (ibid.) for example, hypothesises that this is typical American behaviour, since most of the site's visitors are American. Anonymity and scale are two other explanations on offer (Burgess and Green, 2009). I would, however, like to test the interpretation that this behaviour is not an (widespread and established) exception but rather a central feature of the structure of the social web, and that this can explained by how Web 2.0 platforms function as mediators in a triadic structure of desire. This interpretation can be tested through an analysis of clips that express the discontent of the site's users.

A search for clips relating to the Partnership program reveals a lot of interesting themes that relate to the hypothesis of the paper. Using keywords such as "YouTube Partnership program" and "Partnership program", I ended up with around 1000 clips. None of these clips rated highly on popularity or viewings, which probably has to do with the fact that only a small minority of users are interested in the program. The majority of clips was irrelevant and was put into the spam category. The rest, however, formed a body of texts that was possible to sit and view in its entirety and to conduct a schematic analysis on.

The themes addressed in these clips boil down to the following categories: videos portraying happy users announcing that they have been accepted to the program; clips featuring aggravated users who inform us about their rejection letters or that they have been kicked out of the program; clips discussing the arbitrariness of the program's principles for admittance; clips that promise to reveal the do's and don'ts of the program; and additional clips that constitute a kind of meta-commentary to the discussion. As, for example, a clip on the "the cult of the YouTube partnership", in which the user in a tongue-in-cheek manner describes how after becoming partner he was shut into a room and forced to screen videos for compliance to the Community Guidelines, and forced to pray in front of the Google altar, etc. (YouTube Partnership Secrets, 2008). In the following I will focus on aspects of these videos that illustrate how mimetic desire functions on the open web.

Titles such as "How to be popular on YouTube", "How to make it on YouTube", "How to make money on YouTube" and "How to become a YouTube partner" are among the more popular of the clips I discuss here. These clips feature a number of tips on how to proceed in order to be accepted to the Partnership program. For example, that one should do clips on issues that are already popular, that one should upload clips often. These clips confirm what has already been established in this paper; that all clips on YouTube compete over a limited amount of attention from the site's users. More viewings, more subscribers, and better ratings are the best ways to become a partner.

The attention aspect is also underlined in another category of clips in which the posters complain about the fact that their clips do not receive the kind of attention that they deserve. Some of these contain appeals to other users to subscribe to the uploader's channel, or to give a good review to one of the uploader's clips, or, as one of the clips puts it, "I'm making this video to get their [YouTube's] attention" (YouTube is NOT involved with the Community, 2007). Other clips from users who are already in the Partnership program but still struggling for attention instead complain that he or she is not one of the "Big YouTube Partners" (Vampire Partners Suck YouTube Off!?!, 2009). The desire seems to be always directed at the level just above where the user is at the moment.

Another aspect that shows up in many of these clips is the fact that YouTube claims that

they are trying to get as many as possible into the program. Several clips quote the message the following message in relation to being denied partnership: "Our goal is to extend invitations to as many as we can. Unfortunately we are unable to accept your application at this time" (eg. Rejection letter from YouTube's partnership program, 2008). The possibility for 'anyone' to become a partner seems somewhat paradoxically to be one of the aspects of the program that gives rise to the most aggravated comments. This is, however, consistent with the thesis that desire is mediated by the other. Desire increases proportionally with the possibility for more people to take part in the competition.

The most pertinent indication of mimetic desire is, however, the extent to which clips about the Partnership program are about other users: their popularity; number of subscribers; numbers of viewings, and so on. Not only are these clips used to vent dissatisfaction over the 'unwarranted' attention that other users receive – the field for comments for these videos are also filled with comments that either confirm the position of the uploader or take the opportunity to direct the same accusation to the user who has posted the clip.

A closer analysis of one of these clips can serve as an example. In "YouTube Partnership: Denied", the admittance procedure is depicted in the form of a job interview between a Google employee behind a large desk, and the hopeful user in the opposite position as an applicant (YouTube Partnership: Denied, 2009). As the camera zooms past the wall behind the desk we see a diagram showing the connections between YouTube and a number of large media companies, and a number of portraits depicting YouTube stars with their names engraved on gold-plated plaques. Next to these portraits a large gray pile rises from the floor, above which a plaque has the tag "The others" printed on it. YouTube's alleged favourising of its company partners and its YouTube stars forms the basis both for uploader desperation and desire for acceptance into the program – with the goal of rising from the gray mass of anonymous users to become one of the chosen few.

Walter Benjamin (1968) claimed that the camera 'tests' the person posing in front of the lens and invites the audience to become critics. For Benjamin this was a liberatory consequence of media technology, since it elevated the masses to the position of reflexive participants in the cultural circuit. For the person in front of the camera, however, it meant that they suddenly found themselves in a position where they were evaluated, scrutinised, and tested. Benjamin compared the camera to vocational aptitude tests; the camera is a participant in a procedure where things are sorted out according to their performance on a test. According to the clip mentioned above, on YouTube we are always in the position of being judged, only the camera has now been outfitted with network capabilities, functions and algorithms which take Benjamin's metaphor literally. "What matters in these tests are segmental performances of the individual" (Benjamin, 1968, p.246), a development which comes full circle with the addition of database functionalities that reifies these performances into patterns of individuals. According to Benjamin, performances under such conditions are not amiable to cult values. From the clips analysed here we can claim that instead of instigating a cult of artwork, on YouTube this process encourages the spectator to desire the position of the actor, and to a belief that he or she can perform equally well or better than the person in front of the (web-)camera.

Reijnders, Rooijakkers and van Zoonen (2007) discuss Girard's theory of mimetic desire in relation to the television show *American Idol*. Their conclusion is that *American Idol* can be understood as a ritual through which mimetic desire is neutralised through the course of the series. Girard has developed his theory by introducing the "scapegoat" as a figure through which mimetic desire can be channelled (Girard, 1986). With the help of scapegoats, competition

is allowed to pass over into community, by directing the imitative behaviour toward a shared rival. In contrast to the desire for a rivalrous good, such as attention, aggression towards a rival can be shared by many. In the case of *American Idol* this ritual is staged as the difference between the first and second part of the series. In the first part the underachievers are sorted out and disappear, one by one, from the contest. These become the scapegoats of the series, paving the way for the more optimistic second part which is aimed at achieving community. In this second stage the judges' negative comments are replaced with consistently positive opinions. This symbolic staging of the mimetic desire allows for a transition from competition to community. As I hinted at earlier, however, in the case of the social web and sites such as YouTube this transition never happens, since there is no progression in the same sense that *American Idol* progresses over a season of the show. This fact is underlined by the video clips under analysis; the uncertainty and ambiguity that underlies the admittance procedure is a constant source of conflict. In this sense conflict, rather than community, is a central part of YouTube as a cultural form.

The sociologist Johan Asplund's critical discussion of the limits of Girard's theory is helpful to qualify the argument of the paper. Although Girard claims that mimetic rivalry is a universal phenomenon, it seems that it is more likely to be generated between equals. In this sense it is a horizontal structure. Other kinds of conflicts, such as class conflict, are not based on mimetic desire, but are conflicts based around objectively existing social positions and values. The needs and desires of the poor are not primarily generated by mimetic desire but by the very real and effective hindrance that the uneven distribution of wealth puts on their possibilities of developing themselves and caring for their near and loved ones (Asplund, 1989). Mimetic desire is thus typically generated under certain circumstances. Asplund uses the example of the emergence of modern sports, which he sees as the antithesis of mimetic desire, to clarify this. At the turn of the 19th century a vertical model of society was contested by a horizontal model. The vertical model was finely graded and static; everyone belonged to a specific place in the structure and there was no chance of movement within the structure. The horizontal model on the other hand was characterised by a large accumulation of people on a certain level and the number of levels were less. This model is also dynamic and allows for movement between positions. The first model was timeless and loomed large over society, the other is characterised by constant movement, but movement is foremost directed sideways rather than upwards or downwards. The aristocratic founders of the modern sports movement – for example Pierre Coubertin – sought in sports a way to mediate between these structures and to counteract the widespread nihilism that resulted from increased societal rivalry and mimetic competition, which Asplund claims characterised French society at the time. This mediation is achieved by allowing and encouraging competition under strictly regulated and organised forms. A sports competition solves the vicious circle of mimetic desiring by fixing an outcome that cannot be contested. Asplund claims that in sports we compete for trophies that are beyond mimetic rivalry. Situations that are characterised by mimetic rivalry however do not have a fixed object, and hence desire is constantly intensified and never resolved. Sports aim at achieving an unambiguous ranking which forever distributes trophies between the participants (Asplund, 1989).

Asplund's argument is helpful in theorising what Lev Manovich (2001) has described as the emergence of the database form in the digital age. According to Manovich the database as a symbolic form consists of "collections of individual items, where every item has the same significance as any other" (p.80). Since Manovich wrote his essay the web has, however, changed significantly, and today it is not only digital objects that are handled and displayed on the web, but to a large extent digital subjects, such as the numerical representations of users. Manovich

further claims that "as a cultural form, database represents the world as a list of items that it refuses to order" (p.85). This claim also has to be qualified considering the social web. What we have is rather a constant ordering and re-ordering; a constant process of valuation and ordering. This process does, however, not end at a pre-specified moment and it is only in this sense that it can be seen as a refusal to order. The rules according to which this ordering takes place are not fully known by those being ordered, but can only be second-guessed at and sensed. What Manovich describes as a "database complex" can thus in the age of Web 2.0, and especially in the case of YouTube, be specified as a result of increasing mimetic competition between formally equal participants.

Conclusion

Although the social web has received its fair share of critics it still seems as though there exists a consensus regarding its core features. Web 2.0 is allegedly about 'sharing', 'participation', 'creativity' and is a cultural form that is 'popular', 'liberatory' , 'democratic', 'emancipatory', 'social', and so on. In spite of the argument I have made in this paper I do not see any reason to deny this *tout court*. The web provides possibilities for participation that exceed what is offered by the traditional mass media. For that reason it is only with some reluctance, and at a certain risk, that one criticises these possibilities. The purpose of this paper is not to join the kind of critique that has been forwarded by people such as Andrew Keen (2007) and Jaron Lanier (2010), which tend to be as populist as that which they attack. The point is rather that there are many ways to organise 'open' production and we should not be satisfied with the commercial variants that dominate the net at this particular moment in time.

The purpose of the paper has thus been to contribute to a sound critique of openness. With the help of an example I have tried to show that the so-called 'social' web might as well be characterised as a highly 'anti-social' form of production. When studying social media as an organisational form for cultural production we should pay more attention to the conflictual and competitive elements in this organisation. To describe organisations that aim at openness – such as those envisioned by proponents of Web 2.0 – I have proposed the use of the concept of mimetic machines that encompasses both the cooperative and competitive aspects of 'open production'. In the case of YouTube I have shown how mimetic desire can be seen as part of the structure that propels production on YouTube forward.

The point that we need to consider is thus the specific function that openness fulfills in a certain mode of production. The function of openness on YouTube is not only or primarily aimed at creating an egalitarian and democratic culture of production, but also to generate an entrepreneurial desire that is aligned with the commercial interests of the company.

Endnotes

1 Michael Taussig (1993) also uses the concept of mimetic machines which he designates for example the camera and the advertising image. I would, however, like to use it in order to highlight not only technologies of representation, but entire technical assemblages encompassing users, technologies, and companies. Although this means a certain risk of confusion I think that the distinction between my use of the term and Taussig's use will be evident in what follows.

2 One reason for choosing Hardt and Negri as a starting point is that their work bridges

over some of the differences between writers on digital cultures with different political inclinations. There are for example many similarities between the work of Hardt and Negri and Yochahi Benklers' (2006) *The Wealth of Networks*, even though Benkler obviously does not share the politics of Hardt and Negri in other matters.

3 Capital cannot "organize *productive cooperation*" (Hardt and Negri, 2009, p.140).

4 Pasquinelli (2008) makes a similar argument to mine, drawing experience from both the academy and the art world. Although the academy is often used as a baseline example for how non-rivalrous knowledge production should work, this rosy picture is more of an ideal than something that can be observed in reality. Pasquinelli relies on the French sociologist of imitative behaviour Gabriel Tarde, and although the differences between Tarde and Girard should not be overstated it seems to me that Girard is much more helpful for theorising what Pasquinelli calls the "animal spirits" of the commons. Primarily since Girard puts the conflictual elements of mimesis in the center of his theory. Girard himself mentions Tarde as one of the sociologists who "were indeed strongly influenced by the optimism and conformity of a triumphant bourgeoisie … who sees in imitation the sole foundation for social harmony and 'progress'." Girard (2003, pp.7-8). For a more general discussion of the attention economy, see Davenport and Beck (2001) and Lanham (2006).

5 Although YouTube has not explicitly commented on the exact numbers, this seems to be taken as a matter of fact within the advertising industry (e.g. Spangler 2009; Learmonth 2009).

6 Also the prizes that can be won in these competitions are good illustrations of how for example YouTube's Partnership program works; for the majority of the participants the reward is zero and only for a privileged few do the rewards amount to something more than a symbolic recognition of a job well done.

7 Algorithmic selection does not mean selected by the users, neither does it mean editorial selection, but a combination of both. Since the algorithms and categories are decided by the platform, algorithmic selection should be seen as structured but not decided by the platform.

8 The sorting mechanisms are not transparent, and even a closer investigation doesn't make it obvious what is meant by the 'popularity' of a clip, something which is obvious in the discussions in various web-forums and blogs (eg. Algoritmically demoted – All about YouTube, 2009).

9 Every minute more than 24 hours' of video is uploaded to the site, which obviously turns reaching out into a difficult challenge (see YouTube, n.d.).

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