

## Afterthoughts

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First I'd like to thank Giorgos, Juan Carlos and all who initiated the meeting, to Amar and all from the Berkman Center who organised it and to all of you for sharing your research projects and your thoughts. I greatly enjoyed it and learned a great deal.

Then I would like to add two remarks on the discussion that confused me a bit at the time and that only became clearer to me afterwards.

One is on the session on free culture and the market. I had expected that we would quickly move beyond a sense of antagonism between the two and discuss new business models and, given the fairly global group of discussants, issues of cross-border and South-North trade in free cultural goods. Coming from free software I always thought that in order to sustain free creation and those who create, economic models are needed, not only donation systems but also markets. These are different from markets for physical goods. As Nagla reminded us, the zero-marginal-cost-equals-zero-price rule doesn't apply to cultural goods. The willingness to pay here depends on other factors. In this respect I was intrigued by Thomas' / Thompson's term "moral economy". I think it works not only in justifying claims to conserving old system entitlements and the appropriation of multi-national, Western etc. = evil companies' products as in the Ukrainian experience. I think it is also a crucial element in the emerging new social contract between creatives and audiences.

There is a willingness to create and a (declared and proven) willingness to pay, reciprocal creative contributions in the words of Philippe Aigrain, or a sincere mutual appreciation as James Grimmelmann put it. (As an aside, the Kantian imperative of the GPL he mentions in his paper to my understanding does not regulate author-audience but author-author relations, those among self-selected commoners.) The trick is to devise systems for bringing these willingnesses together. We're seeing e.g. a number of experiments with pay-what-you-want models: NiN, Radiohead, more recently 2D Boy's World of Goo (<http://2dboy.com/2009/10/19/birthday-sale-results/>) or my favourite example: Magnatune.com. Magnatune signals that 50% of the proceeds go to the artists. Customers chose their price in a range of 4 to 14 Euro, and on average pay 8 or 9. All music is under CC-NC. Even though listeners are explicitly permitted to file-share their downloads, enough people buy to make it economically worthwhile for artists and the intermediary. Much information that other businesses keep as trade secret is disclosed. This is a good example that makes me think that fairness, trust and transparency are core elements of a moral economy of free culture, of the new social contract (which is, of course, much broader, including public support for culture, collectively managed levies for legal licenses, e.g. the culture flat-rate and donations).

After returning to Sao Paulo I had a discussion with Pablo Ortellado on whether examples like Magnatune and many of the CC case studies are necessarily restricted to the fringes while at the core of the culture industry competition and investment pressures necessitate all the ugliness of the capitalist marketplace. My idea is that there is a significant effect from the fringes on the core, like in the mainstreaming of bio or ecological products and the effects of free software on the software industry as a whole. But then there is no major culture corporation that turned free that I could point to. Maybe the most likely industry to take that step is games with the trend towards free-to-play online games (gratis, not free) and their embracing of modding (free-licensed but with platform control).

So will free culture contaminate the old market? Or will the emerging market models undermine

free culture as Larry in his closing remarks indicated with the example of Amazon's Mechanical Turk that makes it easy to pay for things that people would otherwise do for free. Or would they? Much of the HITs tendered on MT seem to be menial marketing research tasks, audio transcriptions etc. that I'd guess very few people would volunteer to do. So is the MT related to free culture or just a new form of online labour market? Is the uncoupling of the provision of a good and its price in the examples above (Magnatune, Goo etc.) a sustainable way of bringing the two willingnesses together, combining freedom and full consumer sovereignty with significant monetary rewards? Or are these effects of star products not transferable to other works and of novelty that will quickly wear off? While there are clearly non-market forms of knowledge (science, education) that should be funded through redistribution by all, i.e. taxes, other forms of knowledge should not be funded that way, but need funding nonetheless if we want to continue having professional, full-time creatives -- as scientist in a very special economy we should be careful not make those who strive to do the right, free thing and at the same time to make a living by selling their works appear as "profoundly unethical" (James in his paper). For full-time creation, as Yochai in the Wealth of Networks pointed out, there are two scarce resources involved: first, human creativity, time and attention and second, the computation and communications resources needed for production and distribution. Does selling books excerpted from Wikipedia in order to pay for the latter corrupt a great free culture project or is it a fair value proposition that allows people to give back? I think the idea of a "moral economy" could be very important to pursue in research, practice and memetic engineering and thank Maria and Thomas for their pointers into the literature.

My second remark concerns "free culture". I was surprised that the debate ended in an agreement not to agree on a definition. Especially given that some of the key people coining the term were present and that everybody there utilizes some definition in his or her research. Maybe my thinking about it is simplistic or formalistic but a definition doesn't seem that difficult to me. "Culture" for the sake of simplicity is that which can be protected by copyright, including works whose term has expired. I know, of course, that in disciplines other than law and economics the range of practices and artefacts included in culture is much wider but think that for our discussion copyright outlines the core phenomena quite well. And the attribute "free" refers to the freedom to access, the freedom to redistribute and the freedom to modify published works (with NC and SA as restrictions of those freedoms), all three not new but significantly enhanced by the digital revolution. These freedoms can be either granted by voluntary free-licensing (GPL, CC etc.) or by a legal license (private copying, culture flat-rate) or they can be taken without permission ("piracy" as in any newly emerging technologically enabled media practice from radio through tape recorders to the Internet). Taking a descriptive, phenomenological rather than a normative approach "free culture" would then include libraries, the gratis concert funded by FNAC that Hermeto Pascoal gave at Ibirapuera park last weekend, CC Mixer, unlicensed remixes on YouTube, P2P file-sharing and the Ukrainian download servers -- a wide but nevertheless distinct set of practices and artefacts defined by the three freedoms.

I wouldn't conflate free culture thus defined with the various social movements utilizing and defending free culture: the Open Access movement, the self-publishing literature movement in Buenos Aires, the modding movement, the free software movement, the CC movement (i.e. those specifically interested in the licences), the Wikipedia movement, the pirate parties etc. While free culture is important to all of them, their core is something different (science, literature, gaming, software, licensing, encyclopedia making, politics etc.). Free-licensing for all of them except CC comes only after the fact. Many other practices are not motivated by or related to social movements but come naturally or innately, as Terry put it. As was pointed out in the debate, there is practice first, whether in software or in art. Only certain practitioners identify themselves as part of free culture by explicitly free-licensing. As a second step becoming part of a movement like Wikipedia might acculturate practitioners into shared values, as Christian pointed out. Bunching all this together in one movement makes as much sense as speaking about an Internet movement.

A final note on the the single-issue character of the CC movement that might entail a conservative attitude. A few weeks ago, John Weizman, the German CC legal project lead, convened a meeting on the issue of music collecting societies not allowing their members to use CC licenses. He invited me expressly to explore the relations to the file-sharing exception, the levy for which would also be collectively managed. In the discussion it soon became apparent that such a copyright exception would do some if not all of what CC licenses are doing, in law and for all copyright protected works. At which point I felt a certain antagonism rising in the room. It was like, we've discovered this great toolset and are working hard to spread the evangelium, and now you are suggesting to make that superfluous? Don't you dare! This is, of course, in contrast to what Larry wrote at the end of Free Culture: that free-licensing is a step towards changing the law. Therefore I think that it is important that we be careful not to conflate free culture with free-licensing or even narrower with CC, but rather be inclusive e.g. of A2K which encompasses free culture but also patent-related issues like medicines, yet at the same time precise.

I should have contributed many of these things during the meeting but I was a bit dazed after about 30 hours on planes during the preceding week and many ideas only clarified afterwards. But then this might be a way to continue the debate online.

Best,  
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