Chapter 9

Collaborative Production, the Knowledge Commons and the Application of Open Content Licenses

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ABSTRACT

In recent years impacts of information and communication technologies, market enclosures, and the opposing struggle to retain community and public goods have had significant impacts on the social interactions of communities. This chapter examines communities in the context of the knowledge commons – a space by which "a particular type of freedom" (Benkler, 2004) can be practised. It also provides an appropriate lexicon to the examination and discourse of communities and the ways they work. As Castells (2003) notes, self-knowledge "is always a construction no matter how much it feels like a discovery" –this construction is enabled when people work or associate themselves with each other. In particular, the chapter is concerned about the structure of open content licenses operating within such domains. The chapter first explores the concept of the knowledge commons to understand the types of intellectual property that are distinctive to communities (public, communal, and private). Thereafter, licenses as a structure are examined as they may apply within such contexts. A significant influence on the discussion is the contemporary media environment that communities operate in today, resulting in the breaking down of boundaries, the blurring of distinctions between an original and a copy, and shifting the nature of production in communities. These debates lead to a case for open content licenses as an appropriate structural mechanism for communities.

INTRODUCTION

A struggle is emerging in the world, as highlighted by Slater (2005). It is a struggle to produce and protect what is referred to as the knowledge commons, a space and vicinity of 'common' goods produced by communities of people. The idea of a commons is not new – it has been around since the first human cooperation and collective action. Men hunting together for food, sharing and complementing their skills and produce for their villages – the commons is rooted in communities of social trust and cooperation (Bollier, 2004). Originating from the historical commons, the commons as defined by Benkler (2003) generally are 'institutional spaces, in which we can practice a particular type of freedom – freedom from the constraints we normally accept as necessary preconditions to functional markets'. Moritz (2004) defines the knowledge commons as 'zones of free and equitable use for data, information and knowledge', consisting of physical, logical and content layers of resources (Bollier, 2004).

Almost at the same time, the knowledge commons can be thought of a form of defiance against contemporary organisations of enclosures around knowledge and informational goods. It is certainly so – and before the issues of copyrights and open content licenses can be discussed it is necessary to first understand the motivations by the communities who create, defend, and are sustained by it.

The Romans in the ancient ages identified three types of property (Diegeser, 2003): *res privatae*, *res publicæ* and *res communes*. Res privatae identified property that is possessed by an individual, family or a company. The second type of property is associated with things that are used by the state, and these are commonly seen today as public parks, roads, and buildings. The last type of property, *res communes*, recognized resources that are common to all, such as resources in the natural world (e.g. water and air).

The knowledge commons as it exists and referred to in this paper associates itself with the last type of property. Commonly referred to as the public domain today, property that exists in this space are distinct from things in the private sphere, though this chapter asserts a further distinction between the public and the commons domains. Copyright as it was first conceptualized was intended to benefit creators, while at the same time ensuring a healthy level of works to be available publicly. Copyright as a system of checks and balances maintains such protection and circulation. This chapter argues that technological changes and fundamental shifts in the media environment of today call for an alternative mechanism to copyright. Though the boundaries between the private, the public, and the commons (especially the last two domains) have disintegrated over the years but it is important for this discussion to shed light on these distinctions. They are also essential in order to

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