

Chapter XIII

Cultivating Communities Through the Knowledge Commons: The Case of Open Content Licenses

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ABSTRACT

In recent years, impacts of information and communication technologies, market enclosures, and the struggle to retain public goods have had significant impacts on the nature of 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 is also an appropriate concept applied to the discussion of communities and the ways they work. As Castells (2003) noted, self-knowledge “is always a construction no matter how much it feels like a discovery,” and 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 operating 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 appropriate structural mechanisms 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 as 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 of the communities who create, defend, and are sustained by the very same knowledge resources.

The Romans in the ancient ages identified three types of property (Diegeser, 2003): *res privatae*, *res publicae*, 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 chapter associates itself with the last type of property. Generally referred to as the public domain today, property that exists in this space is 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, it is important for this discussion to shed light on these distinctions. They are also essential in order to understand the contemporary scenarios of today and their impacts, which will be discussed later in this chapter.

One of the most significant influences on the original concept of the commons is the enclosure movement. Very broadly, it refers to privatization, and in the contemporary context; such privatization is usually undertaken by corporations in the name of efficiency and quality. Yet privatization in terms of resources (e.g., financial and knowledge gained) is not the only thing that is happening. The enclosure movement, which originated in the 18th century amongst farmers in England, caused boundaries around intellectual property contained in resources to be formed. What once belonged to many later only belonged to a few. It is somewhat like the exclusive club, where if one becomes a member (insider), there is plenty to be gained and an array of privileges to be capitalized on, and the distance with the nonmember (outsider) widens intentionally. Therefore, if we were to visualize the original concept of the commons, where all common resources is represented on one axis, and compare that with the effect that enclosures have on them, it might resemble something like Figure 1.

In this figure, the commons is conceptualized on the vertical axis as a space where all common resources reside. Enclosures, on the other hand, are conceptualized on the horizontal axis. The circles representing collective communities that appear within this interaction are constantly evolving, expanding, and contracting, as shown

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