

The advantages of skipping the intermediary

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SUMMARY: The objectives standing behind the MOST Programme can be perceived within the wider perspective of movements focused on creating an open environment for cooperation and knowledge exchange among a variety of institutional and individual entities. Despite the strong market orientation of the majority of Internet endeavours a lot of common good oriented initiatives are being undertaken within the realm of electronic networks. The greater the influence of the Internet and mobile communications on the economic and social life, the more important and valid these activities seem to be.

Along with the growing popularity of the Internet and steadily increasing number of its users the Internet becomes a field of market activities and a natural space for commercial endeavours. Although the commercialisation has greatly contributed to the development of computer networks and globalisation of the Internet it has also made radical changes to the space designed by the community of scientists and programmers. Profitability and giving priority to private interests over public good are the main features of the market approach. In contrast to the Internet pioneers, who acted in the name of Internet users' common good, the commercial actors are self-oriented. Despite the fact that the authors of the Internet's architecture have strongly argued that new technologies require new business approaches, few big companies have redefined their strategies according to the specificity of the Internet domain. One of the examples of such ideological clash is the discussion over the scope and the validity of copyright legislation in the Internet.

The technical development and the Internet's expansion have caused immense changes in the process of production and distribution of intellectual works. The simplicity of creation and distribution resulted in skipping the intermediaries what has consequently contributed to diminishing the costs of publishing. This, paradoxically, has not been widely welcomed by the market potentates, who profit mainly from supplying intermediary services.

Recent years have brought some very interesting undertakings aimed at recreating the sphere of common goods that would be accessible for every member of the Internet community, without the necessity to respect the full

copyrights. The most influential activists representing this way of thinking claim that the aggressive US politics of copyrights can be detrimental to creativity and invention. According to Lawrence Lessig, the renown cyberlaw specialist, who took part in the famous trials against business giants trying to dominate the Internet, in the present law system every new scientific or artistic endeavour building even to the smallest extent upon existing works is charged with big royalties. It concerns for example movies being charged for every single instance of showing somebody else's property. Lessig reminds of the fact that the main feature of the creative process is the accumulation of experiences. The human scientific and cultural development is based on transforming and refining the works of predecessors.

The Internet used to be a space, where creativity and invention flourished without any restrictions. The history of the Internet was a history of disinterested cooperation among groups of people concentrated on achieving the common, non-commercial goals. The main ethical standard of early programmers was the belief that knowledge and experience sharing is the priority good and their ethical obligation is to create an open source software. That meant that the program's source code was freely available, enabling modifications and further distribution of enhanced works. The open-source model, perfectly exemplified by the Linux operating system, is one of the highly distinctive features of the Internet pioneers. Nevertheless, it was the open architecture of computer networks that played the decisive role in shaping the Internet. Although the Internet is a complex and multidimensional structure, we can distinguish the three main architectural layers: the bottom physical layer, the middle logical layer and the top content layer (Lessig, 2001). Each of the layers can be free or controlled. What makes the Internet so unique is the fact, that the medium combines both the freedom of action and control at different levels of its architecture. The physical layer is mainly proprietary, the code layer used to be a common property and the content layer contains both private and common resources. The defining principle standing behind the Internet's structure was the *end-to-end argument* formulated in 1984 by J. Saltzer, D. Reed and D. Clark. (Saltzer i in. 1981). According to their assumptions, the network in itself is to maintain the highest simplicity, while all the specifications should be included at the end of the network and in the applications. The designing principle of the network was the efficient data transfer that could be achieved with the help of an open TCP/IP network protocol. Thanks to the main features of the protocol, neither diverse operating systems nor different computer brands were discriminated by the network. The *end-to-end argument* along with the TCP/IP protocol have greatly contributed to the overall development of the Internet and its further applications. The simplicity of

connecting new computers and systems to the Internet resulted from the open, neutral and non-discriminatory character of the network.

Going even further, Yochai Benkler, a professor of law at Yale Law School, argues that end-to-end design creates the Innovation Commons within the Internet. Thanks to the architecture's principles everyone has an equal right to innovate in this space. No one is in the position to say no. The public discourse on the Internet has lately become pervaded by the notion of commons, as an increasing number of authors claim that the unique environment of the computer networks is an example of flourishing commons, which can preserve and induce innovation endangered by market takeover (L.Lessig, D. Bollier). They stress the fact that being a common property the Internet resources not only satisfy individual needs, but also create relationships between the partners of exchange.

Until recently, the idea of commons has been mainly used within sociological and economic discourse with reference to natural resources, which have unique properties and therefore demand special attention. Common pool (CPR's) were defined as natural or human-made goods where one person's use subtracts from the others and where it is difficult to exclude other users (E. Ostrom). Recent technological developments have drawn scientists' attention to the new kinds of resources. The *new commons* term has been coined to describe a new area of study defined as technology-driven, human-made goods that have the features similar to traditional natural resources.

The activists argue nevertheless, that although the Internet serves as a platform to create so called Innovation Commons, recent changes within the realm of computer networks can endanger the future of common property. The new forms of control gradually introduced in the space of the Internet are hampering the commons and impeding the further development of innovation. In the words of David Bollier, an independent activist, „*call it the dark side of the digital revolution: the growing attempts by businesses to enclose the cyber-commons by erecting new barriers of control over information and users*” (Bollier, 2001). The most dangerous changes are caused by the interferences in the hitherto architecture of the Internet (Lessig, 2001b). Introducing the top-down control in the network's physical level can be exemplified by taking the advantage of the broadband Internet access. Owing to technological development the cable operators are now able to define the network's content and the type of used applications. Consequently, they have the abilities to decide what kind of data will have priority over another. Lessig compares this situation to the road that enables some brands of cars to run faster than others. Such activities kill the innovation by dramatically increasing the costs of entering the network.

Within the content layer the most serious threat is posed by the big corporations, whose incomes come from control over the production and

distribution of artistic works. Business giants did not realize the uniqueness of the virtual world while entering the realm of the Internet. Not being able to take advantage of all the opportunities offered by the medium they apply strategies appropriate for the traditional market. One of the spheres most fiercely attacked by the big companies were the *peer-to-peer* networks, that Lessig describes as the quintessence of the Internet commons. The monopolistic market practices supported by the law regulations can be destructive for the new technologies.





A lot of examples of enclosing the commons can be observed at the code level of Internet's architecture. The commercial use of the Mosaic browser's open source code by the Netscape Navigator was one of the first steps towards privatisation of the commons (Tarkowski, 2002). Today the Microsoft's practices of modifying the popular programs and standards and including them into its proprietary software became a common practice. According to previously quoted David Bollier the key to maintain the freedom and independence of the Internet is preserving the open nature of the technical standards as it would diminish the danger of domination from specific market or state bodies. The similar consequences may follow the privatisation of Internet name domains and addresses.

Being aware of the described threats the activists for saving the commons claim that in the time of the domination of copyrights and business philosophy we should fight for revival of sharing and community spirit. The Internet is a unique space that can serve as a perfect platform for innovation as long as it is free from the excessive intrusion of private interests. Such objectives serve as the ideological base for the organizations aimed at building the space for unrestricted development of common good within the realm of the Internet.*

In 2001 the group of American cyberlaw and intellectual property experts founded the organization called Creative Commons. The basic aim of the organization supported by Stanford and Harvard law departments is to "*expand the range of creative works available for others to build upon and share*" in order to enlarge the public domain. CC wants to help define the spectrum of possibilities between full copyright (all rights reserved) and the public domain (no rights reserved).

CC notices that those who want to protect their work are in a better position than people who want to share their work on certain terms as every work is automatically protected by full copyright. As the innovation and new ideas come from building off existing ones, the basic tool to achieve the goals are special licenses created to enable partial or full constraint of copyright laws. Authors can choose from eleven licenses made from combination of the four basic ones:

* See my article „*Wspólne ponad prywatnym*” in: NASK Biuletyn, Wrzesień 2003 for a more concise discussion of the presented arguments.

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 - By attribution: you can freely distribute the work as long as you give the author credit.
 - 
 - Non-commercial use: work can't be used for commercial purposes without author's permission
 - 
 - No derivatives: work can be distributed only in their whole, original state
- 
 - Share alike: people who build on original work have to make the resulting work available on the same terms

The Creative Commons' licenses have been mainly designed for such creative works as websites, music, photographs, movies, literature or courseware. The founders strongly believe that skipping the intermediary will help to broaden the access to creative works what will „*further reduce the barriers to creativity*”.

As if to prove that Creative Commons wasn't the isolated initiative brought into existence by the group of unrealistic idealists the new non-profit organization called PLoS (Public Library of Science) has been soon founded. The main PLoS's objective is to „*make the world's scientific and medical literature a freely available public resource*”. The organization was created as a reaction to the hitherto politics of big scientific journals, such as *Nature* and *Science*. These very powerful, prestigious and influential journals require researchers to relinquish their rights to the published materials. The full access to the reports is granted only to institutional or private subscribers, who have paid large subscription fees. The PLoS's founders claim that constraining the public access to works that have been mostly funded by the state institutions contributes to the impediment of scientific development. In other words, in the current system the taxpayers cannot use the products they have already paid for. PLoS strongly believes that: „*Immediate unrestricted access to scientific ideas, methods, results, and conclusions will speed the progress of science and medicine, and will more directly bring the benefits of research to the public*”. In order to change the system that is inefficient from the public's perspective, PLoS has designed a new business model for scientific publishing. According to that model, the institutions funding the research will also finance the publishing costs (the costs of publication are treated as the integral step of funding a research project). Therefore the reports could be freely available to everyone interested. PLoS will publish its own journals to prove that the model can be efficient and actually competitive alternative to the famous scientific journals.

Not lagging behind the United States Europe can also take pride in founding its own project aimed at enlarging the public domain. The Budapest Open Access Initiative (BOAI) was brought into being in 2001 during an Open Society Institute meeting intended to *accelerate progress in the international effort to make research articles in all academic fields freely available on the Internet*. The Initiative signed in 2002 by a variety of individuals and organisations representing different disciplines stresses the importance of providing the free and unrestricted access to peer-reviewed scientific electronic journals. BOAI underlines the advantages of merging *an old tradition and a new technology that have converged to make possible an unprecedented public good. The old tradition is the willingness of scientists and scholars to publish the fruits of their research in scholarly journals without payment, for the sake of inquiry and knowledge. The new technology is the Internet*. The Initiative's signatories believe that removing access barriers to this literature will foster research and education among different groups of societies around the world. With financial support of the Open Society Institute BOAI will engage among others in the development of business models and plans for sustainable self-archiving and open access publishing, development of software tools and templates for open access publishing, self-archiving, indexing and navigation and promotion of the open access philosophy.

Creative Commons as well as Public Library of Science and Budapest Open Initiative have already achieved some successes. A lot of authors have decided to use the CC licences as a new way of distributing their works. Among them are also those, who could have published their works in successful publishing houses. The latest CC's initiative is attaching the licenses to the music files by embedding the metadata in the MP3 format. PLoS has managed to employ several editors, who have formerly worked for famous journals and decided to join the new organization in order to contribute to the new venture. The first edition of PLoS Biology will be published in autumn 2003, but the editors have already been flooded with a big number of very valuable articles. In May 2003 Lund University with cooperation with BOAI launched the Directory of Open Access Journals containing information about 350 open access journals. BOAI has also started to use Creative Commons' licenses for its publications.

The activities of such organizations as Creative Commons or PLoS may prove to be crucial in redefining the problem of intellectual property and restoring the real function of artistic and scientific works, namely fostering the process of human development.

Viewed in the context of previously mentioned initiatives the MOST Programme objectives seem to be a step in the same direction. MOST aims to provide a sound and workable mechanism that will foster broad cooperation between different entities such as universities, business and content providers. In

a way the new platform will help the institutions and individuals to skip the intermediaries who would be normally necessary to sustain the cooperation. Important is the fact that the partners of cooperation will share and exchange their assets not only in the name of their individual goals but mostly in the name of common goods. The MOSTNet will be the first initiative of its kind in Central and Eastern Europe aiming at generating interdisciplinary thinking and acting synergy between the partner institutions. The main area of MOSTNet activities is the region where the need for establishing such partnerships and links between the academy and industry seems to be pressing. Therefore MOST also wants to engage in BOAI initiatives helping to build the public domain and fostering the open access to knowledge and research on mobile society. The objectives standing behind MOST bring back the principles of the Internet's pioneers, who strongly believed in the power of cross-institutional cooperation in the name of common good.

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