

CPR RESPONSE FORUM

Response to Dr Bollier: Towards a Copyleft?

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Dr Bollier's paper on intellectual property in the digital age is a timely and critical attempt to set an agenda for creating discussion on intangible goods, in particular information. According to him, nothing less is at stake than a fundamental element of democracy: free access and sharing of information lie at the heart of an open, democratic society. It is easy to agree with him about this and also about most other of his claims. Bollier's analysis raises, however, numerous questions, of which I want to consider two related issues: the relationship between the publisher and the author and the idea of copyleft that has emerged in information technology.

As Bollier remarks, the recent trends in the global market place have threatened the objective of free dissemination of information, as corporations are willing to protect their intellectual property rights to such extent that, ironically, their use might be hampered. It is easy to ridicule the extreme ideas about safeguarding copyrights, but a more serious consideration indicates a change in the mentality in regard to intellectual works that has taken place during the two or three centuries. Proposals for tighter copyright control are nothing but logical extensions of IP law that were previously unforeseen.

Had a folk musician a century ago known that his/her songs would survive from one generation to another, he/ she might have simply been happy about this. If these songs had a recognized author rather than being a part of the body of anonymous folk music, the author might have been even happier. The other day I read an interview of an internationally successful Finnish pop-musician in a newspaper, and the pop-star emphasized that the starting point of an enduring career is to be aware of the complexities of the music business and copyrights law from the very beginning: musicians have to protect their songs, their bands' names and images and so on. In some respect these reflections differ a great deal from the picture, perhaps romantic, I painted above. However, each songwriter wishes, I believe, that his/her creative work would become part of the cultural commons rather than being forgotten. Honour and reputation have been motives of artistic works (along with many other motives), and I can't see why they still wouldn't be so, even more than economic interests. Corporations' interests are basically economic. The excessive protection of musical works, for example, might very well have undesired consequences from the author's perspective, to which Bollier refers. In such a situation, the artistic and business motivations could be at odds yet again in the same way as were the interests of the writer and the publishing house in the eighteenth century when, as Rose explains, the romantic idea of the author was set against the practice that the publisher of the material was its owner.

Information technology (IT) has recently witnessed the rise of the copyleft movement. In the music industry, some groups have published their music on the Internet, but there has no IT equivalent to this, as far as I know. Considering the nature of intellectual commons, the copyleft objects are rather peculiar. Three features of the IT situation are interesting. First, they are protected in the same way as all the other copyrighted items but not enforced in the form of royalties payment. Thus, the paradoxical nature of the idea of copyleft is that free use is based on the existence of the copyright institution. Second, they are not anonymous but the moral author of the object is often recognized. Third, and this is particularly important in IT, the item can be freely modified.

Perhaps to put Bollier's idea of intellectual commons into practice within the present legal context requires that the authors' rights to intellectual property objects are protected in the sense of copyleft. It guarantees their free but fair use. As far as the legal system and economic realities allow this to happen, this is an option for the authors of intellectual property. If they take up this option and do not try to stretch IP law to its limits, they act in the spirit of the commons. To expand my moral criticism to concern those corporations Bollier mentions, nothing compels as far as there is freedom of choice in economic matters them to behave in the way they actually behave.

For further information:

Rose, Mark 1994 Authors and Owners: The Invention of Copyright
Cambridge: Harvard University Press

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