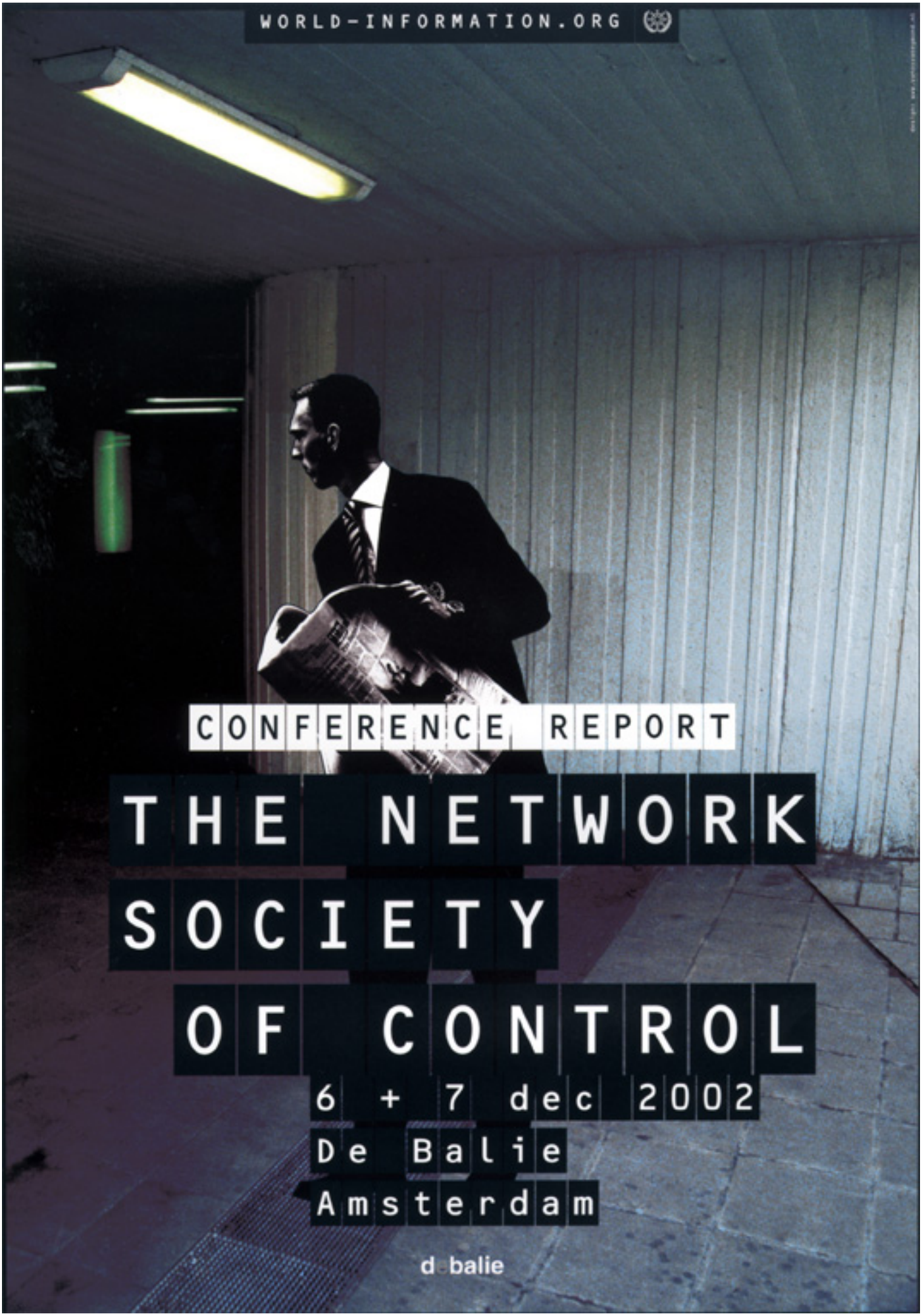
WORLD-INFORMATION.ORG
CONFERENCE REPORT
THE NETWORK SOCIETY OF CONTROL
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De Balie
Amsterdam
d balie

The Network Society of Control

Introduction to the Reader: Exploring the Network Society of Control

This reader brings together materials that have amassed over the last two years in the frame of World-Information.Org, and through a series of discussion carried out over long established mailing lists for media theory and internet discourse, most notably the <nettime> mailing list for net criticism (www.nettime.org). World-Information.Org is an exhibition and a cultural research project around observation and control in the network society, and the culture of new technology. As part of the Amsterdam edition of this project a small scale but highly interdisciplinary international conference has been organised to explore the mechanisms of information control and discuss the viability of alternatives for the current drive towards total information control.

In 2000 De Balie organised a conference of similar scale and format devoted to a critique of the new economy called Tulipomania DotCom. At that time, June 2000, the new economy and dotcom craze were at their height in Europe and The Netherlands, but had already crashed in the US. What we witnessed in the two years that followed was the complete and total demise of the new economy and large parts of the new media industry. The benefits of the dotcom hype went to the financial speculators who left the digital pyramid game at the right moment, whilst their willing accomplices were left with a severe dotcom hang-over.

The idea of a bristling internet- and new media economy, let alone the premise of a "new" economic logic has been dissolved. New media as a business sector has become the object of disdain and pessimism. No longer is the ICT sector seen as the motor of innovation and economic renewal.

Meanwhile, despite the pervasive dotcom nihilism, the internet has been an huge success as a social and cultural phenomenon. Well above 500 million people use this new communications medium on a daily basis, and especially e-mail has transformed the economics of international communication, fostering countless transnational connections between a multitude of private, personal, social and public initiatives. But despite the fact that the economic take-over seems to have failed in the on-line world, whilst the social and cultural sphere are thriving, is no reason for celebration of the latter: First of all the social and cultural actors were relegated to the side-lines when the commercial violence unleashed itself on the networks. Later on they were equally absent in the demise of the commercial players on-line. At best they were helpless spectators, at worst they were part of the vast army of willing accomplices….

More worrying, however, is the fact that after the demise of the new economy darker forces have taken control of the dominant net.agenda: Security and control have become the buzz words of the main-stream

discourse about the internet. At first it focused on the concept of "unwarranted content". Post 9/11 it turned into an at times hysterical debate on security demands vis-à-vis the perceived threat of international terrorism.

In the drive for total information control that followed from this security anxiety even more vital issues than the balance between security and privacy are in danger of dropping out of sight: Silently the old economy, and in this case in particular the media and information giants have absorbed what was left of the "new" economy. New integrated constellations of media production and distribution have emerged, of which the AOL/TimeWarner case has only been the most visible. They generate dubious information monopolies that appear in stark contrast with the widely celebrated open ended and exchange based character of the internet.

New legislation for intellectual products in the digital domain all push for the protection of vested interests. The interests of public accessibility of information products, one of the main strong points of digital networking technology, are severely harmed by the narrow interpretation of Intellectual Property according to various representatives of public institutions such as libraries and public information centres, and more predictably by the advocates of copyleft and open content. These critics stress the necessity of an open information and knowledge space as a catalyst for development and as a means of bridging the digital divides that grow within and between our societies. Interestingly similar initiatives have been launched from the side of information law stating that free use of information materials, within certain limits is a prerequisite for innovation.

In a number of converging debates the figure of the commons has emerged as a central thread; the *creative commons*, the *information commons* and the overarching idea of a *digital commons*. Taking the analogy of common land for the poor to cultivate, the discussion asserts an open and participatory knowledge and information space in which knowledge becomes a resource for the public domain, rather than a proprietary asset. There are complicated questions here about the viability and the economics of a digital commons. Some of the contradictory questions are explored in the texts gathered in this reader and during the conference for which it is produced. Can we dispense with the model of commodification at all to produce the knowledge that needs to enter the public domain? Can the digital commons help to bridge the digital divide? Is the idea of open networks about to be dissolved in the face of the current narratives of the war on terror? Can the digital commons ever become sustainable? Is there any political will to turn it into a reality? Is institutional politics needed at all, can it contribute?

The Network Society of Control

For us as organisers the main question is how to build the digital commons?

Eric Kluitenberg, De Balie, Amsterdam
December, 2002

THE NETWORK SOCIETY OF CONTROL

World-Info-Con Amsterdam 2002

A public conference in the frame of World-Information.Org Amsterdam 2002

De Balie, Centre for Culture and Politics, Amsterdam
Friday December 6 & Saturday December 7, 2002
http://www.balie.nl/wio
http://www.world-information.org

Introduction to the conference

The tidal wave of new security legislation that has followed the tragic events of September 11, 2001, have made a critical examination of information politics in the network society uncommonly urgent. The Amsterdam edition of World-Info-Con 2002 will be an international and interdisciplinary forum to examine the recent developments in information law, policing and surveillance, and intellectual property rights in the digital domain.

The conference will divide up into two parts:

Day 1 - Security Paranoia in the World-Info-Sphere: This part examines the new forms of policing of the informational domains and some of the more hidden incentives behind the drive for info-security. The final section of the first day, "Public Mind Control" is devoted to a critical analysis of the mechanisms of public opinion management and disinformation strategies.

Day 2 - Building the Digital Commons: The second day is devoted to the control obsession over intellectual property rights and the new limitations imposed on digital information exchange. The conference presents a series of arguments for the construction of a "Digital Commons"; a democratically regulated information space in which new mechanisms for public accountability are developed alongside innovative models for a digital public sphere.

Context:

A number of key-trends unfold alongside each other: First of all a radical expansion of policing and surveillance powers on the part of police and investigative authorities, manifested in new laws and increased budgets, apparently meant to counter a deep anxiety about security. In the process of the expansion of policing powers, especially in the field of electronic communications, concerns about privacy and civil liberty are given a

significantly lower priority. Secondly new legislation directives have been passed governing Intellectual Property rights, almost simultaneously in the United States and the European Union. These new legal frameworks significantly restrict the free use of intellectual products and threaten the free-flow of information, which for a long time was considered one of the key characteristics of the Internet. These trends seem quite at odds with the open ended, exchange-based character of the network society. Increased openness of networks and exchange apparently conjures up severe anxieties about security and control. While these trends could already be observed for a longer time, they have gained true momentum after the 9-11 events. They exert increasing pressure on the formerly sovereign domains of the individual; privacy and (informational) self-determination.

World-Info-Con intends to bring together a wide variety of speakers and participants: researchers, politicians, policy makers in the field of justice, economic and technology policy, representatives of social interest groups, intellectual property rights specialist, activists, journalists and cultural workers. Beyond addressing the immediate and urgent questions of recent developments in legislation, surveillance and the implementation of information politics, the conference will explore the more hidden social and cultural dimensions of these developments. Information is one of the primary materials that cultural products are made off. The choices that are currently being made about how information will be handled, valued, and controlled determine the space for future cultural production in the informational domain; the space of information and communication networks, and the media at large.
The themes of World-Info-Con lie at the heart of information politics. The conference will address the balance that has to be struck between security and control in the infosphere, and the concerns about freedom of expression, privacy and informational self-determination. World-Info-Con questions to what extent private ownership of intellectual products is warranted and legitimate, and where the demands and urgency of a digital commons needs to impose restrictions on the commodification of information. A critical analysis from the side of cultural producers and mediators is essential to establish the frameworks of future cultural production in the network society. In a democratic tradition art and culture are spaces of freedom and self-realisation. We want to work together with researchers, policy makers, social interest groups, cultural agents and politicians to make sure that such an open space will continue to exist as we move further into the 'Information Age'.

Final program information at http://www.balie.nl/wio
The entire conference is streamed live at http://www.balie.nl/live

Conference language: English

Conference Editors:

Konrad Becker, Public Netbase, Vienna
Eric Kluitenberg, De Balie, Amsterdam
Felix Stalder, Open Flows, Zürich / Toronto

THE NETWORK SOCIETY OF CONTROL
World-Info-Con Amsterdam 2002

PRELIMINARY PROGRAM:

DAY 1:
Friday December 6, 2002:
Security Paranoia in the World-Info-Sphere

9.15-10.00 Registration/Morning Coffee

10.00-10.30 OPENING

Morning Section: Control Anxiety

Control Anxiety presents a wide-screen view of security and control technologies and techniques. The panel maps the terrain of control technology and the institutional structures that guide its development. Beyond the obvious and visible forms of electronic surveillance such as camera surveillance and biometric scanning devices, the panel will look at more hidden forms of control technology: sophisticated intelligence techniques, institutional norms and standards, territorial models, control institutions, data-analysis and data-mining, transnational regulatory frameworks, and bio-technological engineering. The primary aim of the panel is to map this terrain where new realities are produced in the service of specific ideological, political and economical agenda's.

Chris Hables Gray
Editor of the famous 'Cyborg Handbook' and author of 'Postmodern War', which has become a standard in conflict research.

Konrad Becker
Director of Public Netbase Vienna, Initiator of World-Information.Org and author of the 'Tactical Reality Dictionary' on Cultural Intelligence and Social Control.

11.30–11.45 Coffee Break

The Network Society of Control

Brian Holmes
Writer, art critic, translator, theoretician of anti-capitalism, co-edited amongst others the Documenta X book.

Ryan Schoelerman
Ex-CIA operative.

Steve Kurtz
Artist / theorist, member of Critical Art Ensemble.

13.00-13.30 Panel Discussion

13.30-15.00 Lunch Break

15.00-18.00 **Afternoon Section: Public Mind Control**

Public Mind Control is devoted to the second aspect of information control, the highly developed methods of public opinion and perception management. Public opinion management is a necessary complement of intelligence gathering. The creation of a lasting control grid through informational means requires a sophistication of control over what is the content of public debate and discourse, over what gets communicated and what is left out of the picture. Besides the traditional political players in this field, multinational corporations have stepped up their efforts in perception management, and have refined their (dis-)information efforts tremendously. Corporate greenwahsing techniques are discussed alongside successful reversals of the appreciation of outcomes of research, statistics or even real-life events. The panel also investigates the advanced usage of dis-information strategies as tactical tools for activists.

Sheldon Rampton
PR Watch Editor Sheldon Rampton is a graduate of Princeton University who has a diverse background as newspaper reporter, activist and author.

Ben Bagdikian
Media critic and former Dean of the Graduate School of Journalism, University of California, Berkeley.

Eveline Lubbers
Investigative journalist, author of 'Battling Big Business', a book on Corporate Counter-Campaigns.

Andrew Bichlbaum
WTO / GATT.ORG representative, member of The Yesmen, and

disinformation specialist.

18.00 End of Program Day 1

DAY 2:
Saturday December 7, 2002
Building the Digital Commons

10.00-11.00 Registration/Morning Coffee

11.00–13.00 Morning Section:
The Spectre of Intellectual Property Rights

The Spectre of Intellectual Property Rights examines the implications of new legislation in the field of Intellectual Property Rights Management, which has been developed especially to "take Intellectual Property Law into the digital era". In the US the Digital Millennium Copyrights Act (DMCA) has come under severe critique of advocates of public access to vital information resources, while in the EU a similar directive for the rights of authors in the digital domain has been accepted that is currently translated into national legislation by the EU member states. In both cases the new legislation threatens the celebrated open character of information networks such as the internet, and introduces an agenda of commodification that seems driven by short-term economic interests. Not only open content advocates and representatives of public information institutions such as libraries and museums voice their concern, also within the ranks of information law itself alternatives such as the *Creative Commons* have been proposed. The panel will explore the viability of these alternatives that seek to promote an open and participatory knowledge space, which has tentatively been named *The Digital Commons*.

Volker Grassmuck
Researcher at the Humbold University Berlin, and initiator of the Wizards of OS conferences on the social dynamics of open source systems.

Felix Stalder
Economist and media researcher, co-founder of Open Flows, a network of people who create platforms and projects that adhere to the notion of open source intelligence.

Darius Cuplinskas
Director of the OSI Information Program and co-initiator of the Open Access Initiative, Budapest.

Christiaan Alberdingk Thijm
A practising lawyer at SOLV new business advocaten, specialised in intellectual property law. Publishes and lectures regularly, and teaches copyright law at the University of Amsterdam.

Steve Cisler
A librarian and telecommunications consultant who has been involved with community networks since 1986.

13.00-14.00 Lunch Break

14.00-16.00 Afternoon Section: Governance, Accountability and the Desire for a Digital Commons

In the fourth and final panel of the conference the desire for a digital commons is questioned on the level of political feasibility. How can new regulatory frameworks be developed that guarantee the desired rights for participation and access? How can limits be imposed on the market and the forces of commodification? This panel will deal with new forms and models of media governance that increasingly will have to be organised on a transnational scale. Where should these new forms of regulation be located? How can they guarantee cultural and informational diversity? What is the role of national governments in the formation of the new transnational information spaces? How can these spaces be organised in a democratic manner?

Arun Mehta
Delhi based activist and educator. President of the Society for Telecommunications Empowerment (STEM), which seeks to bring the benefits of modern telecommunications to the poor.

Joost Smiers
Reader in political science of the arts, at the Centre for Research, Utrecht School of the Arts. Is about to publish a book on the impact of globalisation on the diversity of artistic cultures world-wide.

Bruce Girard
A journalist, researcher, and educator, co-author of 'Global Media Governance - A Beginner's Guide', with Seán Ó Siochrú and Amy Mahan.

Thorsten Schilling
Bundeszentrale für Politische Bildung (Bonn), an organisation which fulfils a critical role in the promotion of a digital public sphere in Germany.

16.00-16.30 Coffee Break

16.30-18.00 Closing Plenary Debate

The Network Society of Control

18.00 End of Conference

Conference Speakers:

Christiaan Alberdingk Thijm,
A practising lawyer at SOLV new business advocaten, specialised in intellectual property law. Publishes and lectures regularly, and teaches copyright law at the University of Amsterdam.
http://www.solv.nl/PE-pple.html

Ben Bagdikian
Media critic and former Dean of the Graduate School of Journalism, University of California, Berkeley.
http://www.thirdworldtraveler.com/Media/MediaMonopoly_Bagdikian.html

Konrad Becker
Director of Public Netbase Vienna, Initiator of World-Information.Org and author of the "Tactical Reality Dictionary" on Cultural Intelligence and Social Control.
http://www.t0.or.at/

Andrew Bichlbaum
WTO / GATT.ORG representative, member of The Yesmen, and disinformation specialist.
http://www.theyesmen.org/

Steve Cisler
A librarian and telecommunications consultant who has been involved with community networks since 1986.
http://home.inreach.com/cisler/

Darius Cuplinskas
Director of the OSI Information Program and co-initiator of the Open Access Initiative, Budapest.
http://www.soros.org/openaccess/read.shtml

Bruce Girard
A journalist, researcher, and educator, co-author of Global Media Governance - A Beginner's Guide, with Seán Ó Siochrú and Amy Mahan.
http://www.comunica.org/

Volker Grassmuck
Researcher at the Humbold University Berlin, and initiator of the Wizards of OS conferences on the social dynamics of open source systems.
http://www.wizards-of-os.org/

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http://waste.informatik.hu-berlin.de/Grassmuck/

Chris Hables Gray
Editor of the famous "Cyborg Handbook" and author of "Postmodern War", which has become a standard in conflict research.
http://www.uni-muenster.de/PeaCon/wuf/wf-90/9021001m.htm

Brian Holmes
Writer, art critic, translator, theoretician of anti-capitalism, co-edited amongst others the Documenta X book.
http://utangente.free.fr/ac.html

Steve Kurtz
Artist / theorist, member of Critical Art Ensemble.
http://www.critical-art.net/

Eveline Lubbers
Investigative journalist, author of "Battling Big Business", a book on Corporate Counter-Campaigns. http://www.evel.nl

Arun Mehta
Delhi based activist and educator. President of the Society for Telecommunications Empowerment (STEM), which seeks to bring the benefits of modern telecommunications to the poor.
http://www.radiophony.com/html_files/promoters/arun.html

Sheldon Rampton
PR Watch Editor Sheldon Rampton is a graduate of Princeton University who has a diverse background as newspaper reporter, activist and author.
http://www.prwatch.org/

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Professor in political science of the arts, Research Group Arts and Economics, Utrecht School of the Arts. Is about to publish a book called Arts Under Pressure (London Zed Books) on the impact of globalisation on the diversity of artistic cultures world-wide.
http://www.hku.nl/usa/centres/centres-en/cvo/papers_smiers/

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http://www.bpb.de/

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Felix Stalder
Economist and media researcher, co-founder of Open Flows, a network of people who create platforms and projects that adhere to the notion of open source intelligence
http://www.openflows.org/

Control Society

Postscript on the Societies of Control
by Gilles Deleuze

1. Historical
Foucault located the disciplinary societies in the eighteenth and nineteenth centuries; they reach their height at the outset of the twentieth. They initiate the organization of vast spaces of enclosure. The individual never ceases passing from one closed environment to another, each having its own laws: first the family; then the school ("you are no longer in your family"); then the barracks ("you are no longer at school"); then the factory; from time to time the hospital; possibly the prison, the preeminent instance of the enclosed environment. It's the prison that serves as the analogical model: at the sight of some laborers, the heroine of Rossellini's Europa '51 could exclaim, "I thought I was seeing convicts".

Foucault has brilliantly analyzed the ideal project of these environments of enclosure, particularly visible within the factory: to concentrate; to distribute in space; to order in time; to compose a productive force within the dimension of space-time whose effect will be greater than the sum of its component forces. But what Foucault recognized as well was the transience of this model: it succeeded that of the societies of sovereignty, the goal and functions of which were something quite different (to tax rather than to organize production, to rule on death rather than to administer life); the transition took place over time, and Napoleon seemed to effect the large-scale conversion from one society to the other. But in their turn the disciplines underwent a crisis to the benefit of new forces that were gradually instituted and which accelerated after World War II: a disciplinary society was what we already no longer were, what we had ceased to be.

We are in a generalized crisis in relation to all the environments of enclosure - prison, hospital, factory, school, family. The family is an "interior," in crisis like all other interiors - scholarly, professional, etc. The administrations in charge never cease announcing supposedly necessary reforms: to reform schools, to reform industries, hospitals, the armed forces, prisons. But everyone knows that these institutions are finished, whatever the length of their expiration periods. It's only a matter of administering their last rites and of keeping people employed until the installation of the new forces knocking at the door. These are the societies of control, which are in the process of replacing

disciplinary societies. "Control" is the name Burroughs proposes as a term for the new monster, one that Foucault recognizes as our immediate future. Paul Virilio also is continually analyzing the ultrarapid forms of free-floating control that replaced the old disciplines operating in the time frame of a closed system. There is no need to invoke the extraordinary pharmaceutical productions, the molecular engineering, the genetic manipulations, although these are slated to enter the new process. There is no need to ask which is the toughest regime, for it's within each of them that liberating and enslaving forces confront one another. For example, in the crisis of the hospital as environment of enclosure, neighborhood clinics, hospices, and day care could at first express new freedom, but they could participate as well in mechanisms of control that are equal to the harshest of confinements. There is no need to fear or hope, but only to look for new weapons.

2. Logic

The different internments of spaces of enclosure through which the individual passes are independent variables: each time one us supposed to start from zero, and although a common language for all these places exists, it is analogical. One the other hand, the different control mechanisms are inseparable variations, forming a system of variable geometry the language of which is numerical (which doesn't necessarily mean binary). Enclosures are molds, distinct castings, but controls are a modulation, like a self-deforming cast that will continuously change from one moment to the other, or like a sieve whose mesh will transmute from point to point.

This is obvious in the matter of salaries: the factory was a body that contained its internal forces at the level of equilibrium, the highest possible in terms of production, the lowest possible in terms of wages; but in a society of control, the corporation has replaced the factory, and the corporation is a spirit, a gas. Of course the factory was already familiar with the system of bonuses, but the corporation works more deeply to impose a modulation of each salary, in states of perpetual metastability that operate through challenges, contests, and highly comic group sessions. If the most idiotic television game shows are so successful, it's because they express the corporate situation with great precision. The factory constituted individuals as a single body to the double advantage of the boss who surveyed each element within the mass and the unions who mobilized a mass resistance; but the corporation constantly presents the brashest rivalry as a healthy form of emulation, an excellent motivational force that opposes individuals against one another and runs through each, dividing each within. The modulating principle of "salary according to merit" has not failed to tempt national education itself. Indeed, just as the corporation replaces the factory, perpetual training tends to replace the school, and continuous control to replace the examination. Which is the surest way of delivering the school over to the corporation.

In the disciplinary societies one was always starting again (from school to the barracks, from the barracks to the factory), while in the societies of control one is never finished with anything--the corporation, the educational system, the armed services being metastable states coexisting in one and the same modulation, like a universal system of deformation. In The Trial, Kafka, who had already placed himself at the pivotal point between two types of social formation, described the most fearsome of judicial forms. The apparent acquittal of the disciplinary societies (between two incarcerations); and the limitless postponements of the societies of control (in continuous variation) are two very different modes of juridicial life, and if our law is hesitant, itself in crisis, it's because we are leaving one in order to enter the other. The disciplinary societies have two poles: the signature that designates the individual, and the number or administrative numeration that indicates his or her position within a mass. This is because the disciplines never saw any incompatibility between these two, and because at the same time power individualizes and masses together, that is, constitutes those over whom it exercises power into a body and molds the individuality of each member of that body. (Foucault saw the origin of this double charge in the pastoral power of the priest--the flock and each of its animals--but civil power moves in turn and by other means to make itself lay "priest.") In the societies of control, on the other hand, what is important is no longer either a signature or a number, but a code: the code is a password, while on the other hand disciplinary societies are regulated by watchwords (as much from the point of view of integration as from that of resistance). The numerical language of control is made of codes that mark access to information, or reject it. We no longer find ourselves dealing with the mass/individual pair. Individuals have become "dividuals," and masses, samples, data, markets, or "banks." Perhaps it is money that expresses the distinction between the two societies best, since discipline always referred back to minted money that locks gold as numerical standard, while control relates to floating rates of exchange, modulated according to a rate established by a set of standard currencies. The old monetary mole is the animal of the space of enclosure, but the serpent is that of the societies of control. We have passed from one animal to the other, from the mole to the serpent, in the system under which we live, but also in our manner of living and in our relations with others. The disciplinary man was a discontinuous producer of energy, but the man of control is undulatory, in orbit, in a continuous network. Everywhere surfing has already replaced the older sports.

Types of machines are easily matched with each type of society--not that machines are determining, but because they express those social forms capable of generating them and using them. The old societies of sovereignty made use of simple machines--levers, pulleys, clocks; but the recent

disciplinary societies equipped themselves with machines involving energy, with the passive danger of entropy and the active danger of sabotage; the societies of control operate with machines of a third type, computers, whose passive danger is jamming and whose active one is piracy or the introduction of viruses. This technological evolution must be, even more profoundly, a mutation of capitalism, an already well-known or familiar mutation that can be summed up as follows: nineteenth-century capitalism is a capitalism of concentration, for production and for property.ressively, the owner of other spaces conceived through analogy (the worker's familial house, the school). As for markets, they are conquered sometimes by specialization, sometimes by colonization, sometimes by lowering the costs of production. But in the present situation, capitalism is no longer involved in production, which it often relegates to the Third World, even for the complex forms of textiles, metallurgy, or oil production. It's a capitalism of higher-order production. It no-longer buys raw materials and no longer sells the finished products: it buys the finished products or assembles parts. What it wants to sell is services but what it wants to buy is stocks. This is no longer a capitalism for production but for the product, which is to say, for being sold or marketed. Thus is essentially dispersive, and the factory has given way to the corporation. The family, the school, the army, the factory are no longer the distinct analogical spaces that converge towards an owner--state or private power--but coded figures--deformable and transformable--of a single corporation that now has only stockholders. Even art has left the spaces of enclosure in order to enter into the open circuits of the bank. The conquests of the market are made by grabbing control and no longer by disciplinary training, by fixing the exchange rate much more than by lowering costs, by transformation of the product more than by specialization of production. Corruption thereby gains a new power. Marketing has become the center or the "soul" of the corporation. We are taught that corporations have a soul, which is the most terrifying news in the world. The operation of markets is now the instrument of social control and forms the impudent breed of our masters. Control is short-term and of rapid rates of turnover, but also continuous and without limit, while discipline was of long duration, infinite and discontinuous. Man is no longer man enclosed, but man in debt. It is true that capitalism has retained as a constant the extreme poverty of three-quarters of humanity, too poor for debt, too numerous for confinement: control will not only have to deal with erosions of frontiers but with the explosions within shanty towns or ghettos.

3. Program

The conception of a control mechanism, giving the position of any element within an open environment at any given instant (whether animal in a reserve or human in a corporation, as with an electronic collar), is not necessarily one of science fiction. Felix Guattari has imagined a city where one would be able to leave one's apartment, one's street, one's neighborhood, thanks to one's (dividual) electronic card that raises a given barrier; but the card could just as easily be rejected on a given day

or between certain hours; what counts is not the barrier but the computer that tracks each person's position--licit or illicit--and effects a universal modulation.

The socio-technological study of the mechanisms of control, grasped at their inception, would have to be categorical and to describe what is already in the process of substitution for the disciplinary sites of enclosure, whose crisis is everywhere proclaimed. It may be that older methods, borrowed from the former societies of sovereignty, will return to the fore, but with the necessary modifications. What counts is that we are at the beginning of something. In the prison system: the attempt to find penalties of "substitution," at least for petty crimes, and the use of electronic collars that force the convicted person to stay at home during certain hours. For the school system: continuous forms of control, and the effect on the school of perpetual training, the corresponding abandonment of all university research, the introduction of the "corporation" at all levels of schooling. For the hospital system: the new medicine "without doctor or patient" that singles out potential sick people and subjects at risk, which in no way attests to individuation--as they say--but substitutes for the individual or numerical body the code of a "dividual" material to be controlled. In the corporate system: new ways of handling money, profits, and humans that no longer pass through the old factory form. These are very small examples, but ones that will allow for better understanding of what is meant by the crisis of the institutions, which is to say, the progressive and dispersed installation of a new system of domination. One of the most important questions will concern the ineptitude of the unions: tied to the whole of their history of struggle against the disciplines or within the spaces of enclosure, will they be able to adapt themselves or will they give way to new forms of resistance against the societies of control? Can we already grasp the rough outlines of the coming forms, capable of threatening the joys of marketing? Many young people strangely boast of being "motivated"; they re-request apprenticeships and permanent training. It's up to them to discover what they're being made to serve, just as their elders discovered, not without difficulty, the telos of the disciplines. The coils of a serpent are even more complex that the burrows of a molehill.

Source:
Gilles Deleuze, "Postscript on the Societies of Control", from _OCTOBER_ 59, Winter 1992, MIT Press, Cambridge, MA, pp. 3-7.

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"What is this?" Samuel Morse

Culture and Technologies of Control
by Konrad Becker

Culture is not just the expression of individual interests and orientations, manifested in groups according to rules and habits but it offers identification with a system of values. The construction of cultural memory and establishing a symbolic order through setting up mental and ideological spaces is a traditional practice of cultural engineering; symbolic scenarios generate reality by mediating an implicit political narrative and logic. Maps of the world radiating an aura of objectivity and marking out the ways of life are exploited as cognitive tools. An image of the world as simulation or map of reality can be highly inductive and that explains the investment in cultural representation. From historiography to education, perception is influenced by mental scenarios that establish the symbolic order. According to Edward Bernays, a pioneer of modern public relations, the only difference between education and propaganda is the point of view. "The advocacy of what we believe in is education. The advocacy of what we don't believe is propaganda." The development in electronic communication and digital media allows for a global telepresence of values and behavioral norms and provides increasing possibilities of controlling public opinion by accelerating the flow of persuasive communication. Information is increasingly indistinguishable from propaganda, defined as "the manipulation of symbols as a means of influencing attitudes". Whoever controls the metaphors controls thought.

The ubiquitous flow of information is too fast to absorb and creating value in the economy of attention includes the artful use of directing perception to a certain area, to put some aspects in the spotlight in order to leave others in the dark. The increasing focus of attention on the spectacle makes everything disappear that is not within the predefined event horizon.

Infosphere manipulation is also implemented through profound penetration of the communications landscape by agents of influence. Large scale operations to manage public opinion, to evoke psychological guiding motivations and to engineer consent or influence policy making have not been exclusive to the 20th century. Evidence of fictitious cultural reconstruction is abundant in the Middle Ages; recent findings on the magnitude of forgeries, the large scale faking of genealogies, official documents and codices attracted broad attention and media interest. In 12th century Europe in particular, pseudo historical documents were widely employed as tools of political legitimacy and psychological manipulation. According to some conservative estimates, the majority of all documents of this period were fictitious. With hindsight, whole empires could turn out to be products of cultural engineering. Moreover, writers such as Martin Bernal, author of "The Fabrication of Ancient Greece", have clearly demonstrated to what extent cultural propaganda and historical disinformation is contained in the work of European scholars. On the basis of racist ideas and a hidden political agenda historic scenarios were fabricated and cultural trajectories distorted in order to support the ideological hegemony of certain European elites.

The increasing informatization of society and economy is also the source of a growing relevance of culture, the cultural software in the psycho-political structure of influence. During the so-called cold war, too, issues of cultural hegemony were of importance. In publications such as "The Cultural Cold War" and "How America stole the Avant-garde" Frances Stonor Saunders and Serge Guilbaud offer a behind-the-scenes view of the cultural propaganda machine and provide a sense of the extravagance with which this mission was carried out. Interestingly there were specifically efforts to support progressive and liberal positions as bridge head against the "communist threat". If one chooses to believe some contemporary investigative historical analyses, it seems that there was hardly a major western progressive cultural magazine in the Fifties and Sixties that would not have been founded or supported by a cover organization of intelligence services or infiltrated by such agencies. In the light of this, the claim made by Cuba at the UNESCO world conference in Havana 1998, according to which culture is the "weapon of the 21st century" does not seem unfounded.

Information Peacekeeping has been described as the "purest form of war" in the extensive military literature on information war. From cold war to code war, the construction of myths, with the intention of harmonizing subjective experience of the environment, is used for integration and motivation in conflict management. While "intelligence" is often characterized as the virtual substitute of violence in the information society, Information Peacekeeping, the control of the psycho-cultural parameters through the subliminal power of definition in intermediation and

interpretation is considered the most modern form of warfare.

Disinformation Society
It is a boom time for intelligence agencies, not only state but private intelligence. Mass-surveillance, dataveillance, and information processing has grown into a major intelligence industry. While state intelligence is protected by secrecy in the interest of national security, prohibitive fees and large payments affordable by corporations only, guard access to economic intelligence.

Corporations, consumers of economic intelligence, routinely advance the merging of editorial information with corporate public relations in the media. The agenda of privately accumulated capital is further supported by a multitude of think-tanks which publish ideologically biased research and hidden agendas masked as independent academic work. Unlike the billion-dollar brainware industry put into place by corporate interest, there are no Future Heritage foundations of cultural intelligence, no foresight institutes exploring the multidimensional potential of human experimental communication beyond the role as consumers. It seems as if the control of societal development is in the hands of technocratic elites, ill informed bureaucrats and a shady but aggressive lobbyism. The layout for the future of communication is decided behind closed doors.

Technologically determined environments increasingly shape society but the democratic participatory potential is more and more excluded from a public debate. Most of the early hopes of emancipatory practice in a society based on information exchange seem to have vanished and turned into gloom. Instead the potential of information and communication technologies for political control and repression seemingly has no boundaries, as its practical applications become more "normal" and manifest reality every day. The use of information technology for the deterrence of civilian dissent opens up a new dimension of political and cultural control.

By the year 2002, high resolution privacy intrusion is getting into the mainstream big time. Although 9-11 caused a landslide, this development has built up momentum for some years. The European Union's cross border communication interception project Enfopol, and the UK's Regulation of Investigative Powers (RIP) bill, which allows the police to intercept any communication using the "public communications system" were among the earlier legal frameworks paving the way for the rise of the total surveillance society. Despite being taken up by the European Parliament in1998, the Echelon communications interception system set up in1948 remains one of the secrets of western intelligence agencies and out of the reach of democratic accountability. Increasing proliferation of technologies of surveillance and control is not only useful for its potential to contain segments of society that fail to be integrated into the economy of machinic symbol manipulation but the long-term effects of

social homogenization through the command/control structure of technology are also highly desirable for globalized markets and opinion management.

Future Culture

The situation is getting even more precarious due to the fact that new media are ever more dominated by a dramatic concentration of private interest capital and the absence of the protection of the public interest by political representatives for a society at large. The public sphere can best be developed independently from the state and from dominant business interests. The logic of the control over the media market is strongly opposed to the cultivation and formation of a public sphere, and the dysfunctionality of media markets generates a crucial deficiency of participatory media culture. A society shaped by technological systems and digital communication should keep a perspective where cultural freedom can be actively pursued and in which use and value are not exclusively determined by profits. Therefore it seems necessary to widen the basis of understanding to support a broad discussion on the political implications of ICT and to raise awareness on issues of conflict. Developments that need to be monitored with great awareness include the attack on privacy and the databody, the digital divide, net.slaves and the deterioration of the workplace, the vanishing of a public sphere in the digital realm, the extension of copyright benefiting the content industry and IP lobby against the public interest but also the establishment of one-sided technological standards, the militarization of cyberspace and new possibilities of disinformation.

Against this less then reassuring background there is a surprising multitude of examples of emancipatory use of ICT to be found all over the world and it has become undeniably an essential tool for political, cultural and human rights activists. These groups and individuals are the ones that keep the spirit of the social use of communication networks alive and give an example of empowerment through new technology.

A DATA BODY MEAL PLAN	
	BREAKFAST: take phone call, drive GPS equipped car, emerge from surveillance camera equipped subway, go online, send E-mails, complete online registration forms, receive faxes
	LUNCH: pay lunch with credit card, use your customer card when shopping, use mobile phone, pass through biometric access controls, use smart card
	AFTERNOON SNACK: visit doctor, file insurance claim
	DINNER: respond to tv commercials, complete income tax form, visit chat rooms, use free webmail. Programme phone wake-up call.

Tactical Reality Dictionary:

Ambiguous Information,
Attentive Relevance,
Behavior Patterns,
Belief Networks,
Coercive Continuum,
Cognitive Framing,
Consistent Illusions,
Control Stratagems,
Corporate Intelligence,
Critical Hedonism,
Cultural Counterintelligence,
Cultural Intelligence,
Cybercratic Conspiracy Command Control Intelligence (C4I),
Deceptive Communication,
Deceptive Intelligence,
Decognition Training,
Digital Ecology,
Digital Human Rights,
Dimensional Framing,
Dream Nation,
Electric Emotions,
Embedded Commands,
Expanded e~scapism,
Expert Systems,
Explanation Driving,
Fluffy Logic,
Future Heritage,
Hyper Politics,
Hyper Topology,
Induction Codes,
Infobody Attack,
Infobody Biofeedback Modulation,
Intelligent Pandemonium,
Invisible Intelligence,
Knowledge Representations,
Leviathan Supersystems,
Magnetic Somnambulism,
Mac Believe,
Manipulation Patterns,
Meme Slaves,
Memory Construction,
Memory States,
Mesmerized Data,
Microwave Discommunication,
Mind Modification,
Mind Patterns,
Nested Images,
Non-Lethal Action,
Pattern Detection,
Pattern Recognition,
Perception Management,
Perceptive Expectations,
Persuasive Influence,
Persuasive Internalization,
Propaganda Propulsion Project,
Psychotronic Stimulation,
Reality Engineering,
Senso-Linguistic Infiltration Programs,
Social Styling,
Spell Checking,
State Control,
Structural Delusion,
Symbolic Order,
Synchronous Isopraxis,
Synthetic Cults,
Synthetic Worlds,
Tactical Truth,
Tactical Synrealism,
Telepresent Contagious Postures,
Vast Active Living Intelligence System,
Virtual Patrol,
WhoIsWho Anonymous

Source:
Introduction to the cultural intelligence manual "Tactical Reality

Dictionary": http://www.autonomedia.org/tacticalreality/

"What matters most is whether or not there is an intelligence debate at all."

An interview with Nicky Hager [02.02.2001]

It is hard to imagine that the current debates on global spying system Echelon would ever have taken off without the investigative work of New Zealander Nicky Hager. A researcher and writer on military and environmental issues, Hager published his book "Secret Power" in 1996, exposing for the first time the global interception network that now is the subject of parliamentary enquiries in Europe and the US. World-Information.Org researcher Katja Mayer spoke to Nicky Hager about Echelon, the politics of intelligence, and the threat to democratic governance posed by intelligence beyond public accountability. Nicky Hager's most recent book publication (with Bob Burton) is "Secrets and Lies: The Anatomy of an Anti-Environmental PR Campaign" (Common Courage Press).

Q: As a public interest researcher you have worked on subjects ranging from social policy to environmental issues. How did you get into the intelligence subject?

A: In the 1980s no one even knew that the New Zealand government was involved in signals intelligence (SIGINT) and that we had links with the NSA. When a colleague of mine went on holiday to a beach, his host directed him to a new installation that turned out to be the first signal intelligence stations we learned about, Tangimoana. I went and had a look at it and thought it would be interesting to find out about the this newly discovered intelligence agency located within our Ministry of Defence. As a kind of a hobby for a few years during the 80s, I was trying learn more about this completely anonymous organisation. It was covered by absolute secrecy. They would not release any information.

I would probably not have gone further if I had not had some lucky breaks in my research. I did not start with any secret sources. I did the kind of research which is digging through all the boring public sources looking for little hints. And what I found was that it had been so secret that they never believed that somebody might even get interested. All the staff had been hidden on the main military pay rolls. Once I started to dig into it, which was a horribly large amount of work, I was able to assemble all of the organisational plans and identify all the members of the intelligence service from these public service and military lists. I was able to go back through time and see wherever they had been posted to another country, to Washington or to Vietnam during the war, all the way back to WW II.

An as it turned out, I only got 5 percent of the way. Mine was still an outsider's view. But New Zealand is a small society, and people forwarded me bits of information that I was able to relate to the names of the people in my staff lists. I found out quite a lot about these people, including

which sections they worked in. I studied university exam results in order to find out, for example, who was a Russian linguist and who was a computer specialist.

It was slow. But eventually I reached a stage where I was confident enough to start to approach people. I then spent several years of interviewing people working inside our intelligence services. There was an amazing a number of people who never had told their wives or husbands about what they did at work but who, once approached, were willing to talk to me.

In this series of interviews I asked questions about every aspect of their work I could think of: the layout of the facilities, the precise equipment, all the names of their manuals, exactly how they did their job, where they and their friends were trained, the dates of the training courses, the changeovers of the staff and so on. The reason why I went into that detail is that with very secret subjects like intelligence it is very hard for a researcher to prove that you haven't just made something up. It's very easy for the authorities to scoff or to deny. And so my approach to this was to seek out such a mass of detail about every staff member and room and system and manual that I could that the information was sort of self-confirming as much as possible.

Q: Have you ever been approached by people who wanted to offer you information?

A: No, I have not. These people sign secrecy oaths called "indoctrination" papers. They do not even tell outsiders where they works. It's an unpleasant life. People get into this line of work and cannot move on because they cannot say where they have worked. When I talked to them they were meeting somebody who knew of all their workmates and some of their background, and this made it much easier for them to be willing to speak. The percentage of people who opened up to me was staggering considering the secrecy of their jobs. And some of them where offended because they didn't like what was going on in their work. Mostly I think it was a relief for them to talk.

Q: Did these people know exactly what they were doing?

A: Generally, people have very specialised tasks. They usually know little even of what is happening in the office next door. In order to get a profile of the organisation, you therefore need to have to have lots of sources working in different parts of the organisation.

Q: But they knew about the main tasks of SIGINT, that it grew out of WW II, like all the submarines going through this area, they knew about the history of their work...

A: Yes, they of course knew it was SIGINT. But, for instance, most of the people I interviewed had never heard the word Echelon. Because their superiors had judged that they didn't need to know it.

Q: But did they also know about the UKUSA facts and which governments they were working for? Was the staff Americans or New Zealanders?

A: New Zealanders.

Q: But they were working for the NSA as well ...

A: Yes, they had briefings where they were told very specifically about the five-nation intelligence alliance called UKUSA. Whatever they were working, whether they were section leaders or directors, their primary relationships were not within the organisation but to their equivalents in their sister agencies.

Q: They were never worried about what they were doing? Did they talk to you also about tapping into private conversations of people from New Zealand?

A: In the case of the New Zealand agency, I questioned them on this and I'm certain that in their routine business they never targeted New Zealanders nor the allies: Australians, Americans, Canadians or British. They are an organisation whose mission is foreign intelligence. However there are believable stories coming out of other agencies around the world, which say they have happily broken that rule in the large agencies. But a small, less powerful ally like New Zealand sticks to the rules much more scrupulously. This is not a political decision, since 99.9 % of what they do never goes near the government. They are simply technicians who do their jobs year after year according to agendas devised in meetings with the intelligence allies.

Q: In the US there is a lot of excitement about the NSA intercepting communications among American Citizens and politicians ...

A: But those are very frustrating discussions, because they always result in denials. Unless a better story comes out you will sit in this horrible nowhere place between the claim and the counter claim and you cannot do anything with it. The US Church Committee investigation in the mid-1970s in the aftermath of Watergate was the last time before the current debate on ECHELON that there was a serious debate about intelligence. The Watergate scandal had been so serious that the US Congress and Senate allowed a really deep inquiry into the FBI, NSA and CIA. The report exposed spying on all sorts of anti-Vietnam campaigners and prominent people such as Martin Luther King. This did a lot of damage to them 25 years ago. The main conclusion of the Church Committee, which I never forget, was that they said that it is impossible to have political and public oversight of intelligence agencies unless you have access to the deepest levels of their

operational files, because the briefings by the senior people are worth nothing. This is so true: they see it as part of their job, as an extension of their organisational security, to perpetuate myths and to make sure that the people don't understand their capabilities. This is one of the many techniques of stopping the public debate.

Q: Has anybody told you about economic or commercial espionage?

A: There was a lot of economic intelligence being collected in my part of the world, for instance major commodity sales. I found very little individual spying on companies, and the reason that they gave me inside the agencies, at least in the case of New Zealand, was they didn't know where to forward the information to. There was this practical problem that they could not decide whether they would give it to an American company which was employing people in New Zealand, or a New Zealand company which was producing goods in Taiwan. They just threw up their hands and they didn't do it. In the US, the work of Duncan Campbell has shown that they appear to have well-established administrative machinery for passing on intelligence to some big companies. But I have got no first hand sources of that.

Q: In the European Parliament, a commission was established to examine Echelon and its implications.

A: I am thrilled that there is this debate going on in Europe. As I said, it's the first time since Watergate that there has been a serious ongoing public debate on intelligence and its implications. I don't like the emphasis on commercial spying because in my experience it is only a tiny subset of what they are doing. To me, the civil liberties and the privacy issues and the international issues of relations and power between countries are much more significant.

Q: Has there been any major change at Waihopai station since your book appeared?

A: When I was finishing the book I was trying to find out desperately about telephone monitoring capabilities, because at that time the main New Zealand Echelon site, Waihopai, was only doing written communications like e-mail, fax, telex, and computer communications. But they were not doing any voice there at all. Here was this very important area of the story and I couldn't solve it. About 18 months after my book came out I found out from my sources inside the agencies that they had installed automated telephone interception at Waihopai. This is very significant news. There is this frustrating debate on the outside about what their telephone and interception capabilities are, which goes nowhere without an inside source. Now I know for 100% that automated telephone interception is being done there, but of course it was already done much earlier because New Zealand was the last country that started with it. But exactly how they do it and

to which extent I do not know.
It could be done with voice signatures, or by targeting particular people speaking key words. I don't think at the moment they are doing all voices real-time. But there is definitely something really major on the way. They had to change all the procedures. You could have a limited scale where you look at the communications headers and footers and pull out certain phone calls or particular phone numbers, but it is much bigger than that.

Q: I had a long talk with Duncan Campbell about this. He told me they are getting nowhere only with keyword recognition using dictionaries. They only have automatic transcribers to transcribe the phone calls. They are now implementing something called topic recognition. The NSA holds patents of many new technologies in this field, such as the "semantic forests". But they still need to know who they are intercepting, they need to track names and phone numbers. He also said that Optical Character Recognition (OCR) is working pretty well now and that their OCR is working much better than ours...

A: I talked to people who were solving fax interception problems and they where doing that in the 80s and sometimes it worked and sometimes it didn't. But they were solving the problems back then when they had them. Except hand written faxes, of course. That is still hopeless for them, they cannot do it.

Q: So there have been changes in software, but what about the targets?

A: In Waihopai they have 2 large and one small dish now. I said in a chapter of my book that New Zealand and Australia share between them the Pacific and Asian satellites, the Intelsats. New Zealand does the major ones over the Pacific and Australia is specialising in the South East Asian traffic.

Q: How is the data distribution organized? A lot of information goes to Washington or to Maryland, but is the same amount of data going to Canada or to Germany for example?

A: Within the 5 countries of the UKUSA agreement I can tell you, because that is specific. This is not a series of ad hoc bilateral relationships like New Zealand and Australia being good friends. It is a hierarchical system and it was set up by the United States. In the majority of cases, most of the information is sent to the US. They are using most of the capabilities of allied countries' spy facilities around the world. Most of Australia's and New Zealand's "raw" intelligence reports (that is, unaltered intercepted communications) go straight to Washington. Australia and New Zealand never see them. It's a bit different, though, for finished intelligence reports. In New Zealand's case, we spy on two satellites that serve a whole Pacific region but we are delegated the job of producing finished intelligence reports on the South Pacific. The same applies to

Australia; they have a particular delegated area within the intelligence alliance for finished reports stretching across south and east Asia. Whichever one of the Echelon facilities - US, Japanese or whatever - the intelligence on a particular subject comes from, if it is about the South Pacific then the New Zealand intelligence officers write the raw intercepts into proper, translated intelligence reports. These analysts are specialists in those countries, governments, and subjects. This finished intelligence is sent out to the allies from New Zealand. Fort Meade (the NSA) doesn't get the job of distributing it, but the distribution lists are completely standard. It might be a subject like South East Asian trade negotiations or Malaysia international trade negotiations, that might be a category. There will be a code name for that category and there will be a specified list of intelligence officers from the NSA,GCHQ, CSE, CIA and so on who receive that category of report. There is a list of them which has been negotiated in advance. The information automatically goes to that list.

In the U.S. they often look at the significance of pieces of intelligence and decide to withhold them from the allies, even though they are on the distribution list, because it suits their interests. But when you are at the bottom of the heap like New Zealand, you follow the distribution lists rigorously because you can't afford to antagonise the larger allies. Echelon is not a great big co-operative!

But again to the question concerning the European parliament. I have heard people criticising this European parliament committee, for its lack of powers to force intelligence staff to appear before it. I think that they are wrong, it is a much better committee than they are imagining. My opinion is that - the way intelligence agencies work - the committee would never have found someone from, for instance, the GCHQ willing to testify anyway.

If they did, they would get the standard menu of responses related to the requirements of national security, the fight against terrorism, etc. Those public relations lines contribute nothing to understanding. Nothing could be gained by having those people there. The committee with its broad agenda is exactly what this issue needs. What is required is serious public debate about intelligence. The primary issue is not how the intelligence services try to avoid change or what arguments are used. What matters most is whether or not there is a debate at all. The main thing that intelligence agencies and the governments supporting them usually succeed in doing is stopping there being any debate. This could go on for decades. The customary combination of secrecy and denial means that new stories that come up die instantly. The public consciousness is stuck with James Bond, the World War II, etc.

In the two and a half years since the first STOA report came out, new

stories have come up which have added to the weight of the issue and prevented it from being dropped silently as would be usual. There is no precedent of an intelligence subject staying on the agenda for so long. That should be celebrated. It is an opportunity we must not miss.

For decades the implications of intelligence and the growing power provided by computers for surveillance and undermining of privacy has been a non-debate. Echelon, as one component of this story, has provided the vehicle that ensured the debate did not die off after 12 hours, as is usually the case.

The interesting characteristic of this whole issue is that it is not being driven by politicians or by protests. It is much more related to finding information. This has something to do with the special case of intelligence, but it seems to me it has also to do with the nature of modern politics. Secrecy is the basis of much of the power of intelligence agencies and modern governments; and it is essentially undemocratic. The same politics of secrecy can be seen in the power of, for instance, the World Trade Organisation, where much of the organisation's business is protected from public (i.e. democratic) input by institutional secrecy.

What I'm saying is that research - uncovering institutions' secrets - is vital if the public and parliaments are ever to be able to control secretive organisations. That has been the case with the intelligence debate so far and applies equally to many other issues. I hope that more people will put time into investigating intelligence agencies and discover that they are not as impregnable as they appear. There should be conferences and meetings where the results are compared and discussed. How much more powerful would that be!

Q: I think the number is growing, particularly in connection with the EU parliament's investigation of Echelon. The media love the subject.

A: It is very important, yes, but it is also very important that other topics like the domestic spying being co-ordinated between EU governments receive attention.

Source:
http://world-information.org/wio/issues/992006691

Surveillance Technology: "Now people are seeing the dangers and that's important."

An interview with Steve Wright [15.04.2001]

Steve Wright is director of the OMEGA foundation, and author of the report on technologies of political control for the European Parliament. He spoke to Wolfgang Sützl about actual developments concerning surveillance technology and his optimism that global surveillance will soon become a political issue.

Q: Steve, since we last met in Brussels in July 2000 has there been any significant development in terms of surveillance technology?

A: There have been a lot of changes. There is the RIP (Regulation of investigatory powers) bill in Britain, which is a manifestation of the EU-FBI agreement actually made small scale in a country like the UK. We've had news in the States of Carnivore, the FBI system that can actually enter people's hard disks and take out all of their correspondence and we've had the fight back: we've had more and more comment on Echelon, we've had France deciding to take legal action, we've had ACLU (American Civil Liberties Union) do their work in publicizing what actually went on in the States. And perhaps most significant for Europeans, we've had the beginning of workings of the European parliament's Echelon committee which will do a full and proper investigation into the economic and social impacts of the American global interception system.

Q: So you're actually quite optimistic about what the parliament can achieve in its inquiry?

A: One always needs to be cautious, after all the European parliament has very little power but I'm optimistic that this initiative will make the whole area of global surveillance a political issue and the question of an accountability and transparency a matter of politicians to argue through as a subject for a regiment debate. A few years ago it was nowhere, now people are seeing the dangers and I think that's important.

Q: Do you think there will be a general weakening of the traditional national security argument in politics as a result of this?

A: We're on the threshold of change in military strategy. The end of the cold war is seen a gap in military spending which is being quickly filled. The old enemies have gone and the military expenditure is now higher than it was at the height of the cold war. The new enemy is cyber-terrorists. It's the idea that information warfare will be the warfare of the future and all those that oppose national capital like environmentalists, like the people at the WTO-meetings now have to be tracked. I think it's a about

selling the idea to a wider public and persuading people to believe what is nonsense. There's this pyramid-building in the US on behalf of the military-industrial complex and they're looking for new enemies. Accompanying this, there is a shift in military doctrine towards less lethal warfare in combination with information warfare. This is a reorientation of policy, which means that global surveillance for enemies carrying out potential attacks against the US and its allies becomes an obsession. I think we're going to see a witch hunt. We're going to see the information equivalent of the Spanish inquisition where anyone that opposes or questions even this policy will be seen as suitable target for surveillance. I don't think this grants for complacency. We've got to be aware that there's a tremendous infrastructure change and we really do have to start working together as a network because the evidence of these changes will not be visible in one state alone. We have to see how the magnet of the US-influence under George W Bush is going to make all the other iron filings of the peripheral states line up as one because of the tremendous economic power there.

Q: But still we at least have surveillance now on the agenda of the European parliament, which is an advance as you just pointed out. What do you think about the cyber crime convention that is being drafted by the European council?

A: I'm skeptical that such initiatives are anything than pyramid-building but I think that if you look hard enough for enemies you'll find them. There are whole careers that stake here, and new enemies will be identified. Certainly there is cyber crime, there is anti-state activity, there are terrorists, there are money launderers, there are pedophiles, there are people involved in using the networks for illegitimate means. But I question the priorities. I question whether the agenda is fixing on the people that are misusing these networks to the greatest degree. We're not looking at finance by the major institutions, we're not looking at the way that illicit arms dealing is done through the cooption of big business and big banks. I think we need to question how the targets are being chosen and who is involved in that targeting. At the moment that's nowhere. We are given a list of evil-doers and they are shibboleth, they are not open for questions. Anyone who says "Well, hang on, there are bigger issues here." is seen as suspect. I think we've seen what witch-hunts during the cold war lead to: it's a complete skewing legitimacy. This was again demonstrated the United States too during the Gulf war when the US-intelligence and -military agencies were saying that they were coming under attack. It was a big problem and they countered with a number of military attacks. And what in reality was happening was people were searching for news, some people went to places on the net and found they could get through fairly easily to official sites. What was in many cases more or less curiosity was really filed as a terrorist attack.

Q: One thing that strikes me as particularly alarming in that kinds of

issues you're investigating is the spread of military paradigms in security. Surveillance, for example targets everybody, so there is the classic military assumption that everybody is a potential enemy. It seems that we are approaching a situation in which everybody who cannot prove to be "innocent" is a suspect by default.

A: Simon Davis has made that point and I think the danger is that the corporation that makes surveillance technology for the civilian- and the police-sector are the same companies making military equipment. There are real dangers here because the hidden implications will only be apparent when we're further down the road of total surveillance. It becomes very difficult then to say: "Well, what did this achieve?". People like Jason Didden in the UK have done comparative studies for the home office on how effective CCTV has been in crime prevention. Their conclusion was extremely marginal. We're seeing initiatives from the US being imported like DNA- or hair-testing. Now hair-testing for LSD drug-use is an insidious development where companies say that they have the right to know about the private lives of all of their workers. Jason's is unique because he said: "With CCTV we've lost it. We can now never withdraw a technology even if it doesn't work." But with hair-testing he said: "Well, hang on, there are corporations here that don't test their technology. They give very precise figures about how much drugs they found down to the nanogramm in a millimeter of hair but when you do the research you find there's no bench-testing, it's completely made up. But no one has stood up and said: "It's bullocks, how dare you make accusations on the base of such bad science." I think that that's the issue: we need to say to these agencies that absorb so much of our tax money. What are they doing with it? Why are they working in this area and not in that area. Why aren't they taking on the racists, the banks or the corporate criminals? Who is setting the priorities? Who decides who is not a target? Privacy International has released a book on the level of military companies that are now at the surveillance wing. And what we're seeing is a shift towards miniaturization of the police and a new role for the police in an internal war. I regard that as extremely worrying because the accountability changes in domestic policing are quite clear cut - everything has to be lawful, it's got to be precise, it's got to be discriminate, it's got to be standard in court. Whereas with the military friendly fire, bombing your allies, making mistakes is seen as legitimate if the greater goal is achieved. It's indiscriminate and anti-democratic.

Q: How do you assess the chances of research and development in these high-tech fields becoming more transparent? What appears to be the case is that a society is always faced with technologies that are already ready to use. We're not involved in setting the priorities of which direction R+D takes in the first place.

A: Way back the Office of Technology Assessment was set up in the States to

help decision makers anticipate the negative sides of technology. It was abolished under one of the previous administrations, an act of great folly. The European Union has set up such a system too but at the moment it's very underfunded: the Science and Technology Options Assessment Panel (STOA). What we've said in our recent report on crowd control technology - which include surveillance - is that the issue is too serious not to have social impact assessments of each new technology because we can't afford to take the commercial nonsense without question. I think there has to be some human impact assessment to say: "Prove it. We put the honors on you as manufacturer to show that this actually gives the results that you say it does." Likewise with the big systems, they are so centralized and unaccountable but there's an arrogance there. We saw it with the British Empire where during the American war of independence America said for commercial reasons: "We are going to leave you. We don't want have anything to with the British Empire. We think that you've gone arrogant and that you're imperialist and we don't want to be one of your colonies". Now we've got with information warfare the exact symmetry: America is acting like Britain did in colonial times saying it has the right to take economic intelligence for its own benefit and hang the rest. We, the anti-surveillance committee, think that is very unhealthy now. It needs to be arrested and charged. We're seeing the start of that process and I'm not optimistic in the short-term. But I think in the long-term this has to be successful and by raising the issue and getting publicity, which is exactly what we can do at an even like the World Information Forum

Q: You pointed out again today the effectiveness of this sort of humorist resistance against institutions, data-capturing, etc. You said that "they can take arguments but they cannot take humor."

A: Humor is very subversive everywhere. People hate being laughed at because it spreads. I've seen as you must have seen the e-mail that's gone around the web after the fiasco of the recent US presidential elections saying: "Britain has just receded from independence and we're now taking America back as one of our sovereign states. You're now answerable to Tony Blair and don't have any elections because you're a colony". That would generate so much reaction because the there was a lack of sense of irony and a sense of humor. We can see the paradox. I think in this area it's punchy. It's almost like a photograph saying: "We see through the emperor's cloths. We see what you're doing". And it spreads and it's an unexploded dimension. I mean here in Austria we're talking about regular demonstrations are going on and about the impossibility of being everywhere whereas humor can be. I remember when the Shah fell he had cameras in every square in Teheran. And people said: "Well, you want to watch us? Watch this! We think it's funny to see your face go up in flames". And they burned an image of the shah in front of every camera. And all he got to see was his own picture burning. There are many other examples of good humor being used to challenge and to take on the state in a harmless way. And I think that that will spread, it's part of the package. It's undermining

that kind of "We're untouchable".

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From INGSOC and NEWSPEAK to AMCAP, AMERIGOOD, and MARKETSPEAK

by Edward S. Herman (US) [29.08.2000]

"Doublespeak and thought control are far more important in the West than Orwell in his essay on "Politics and the English Language" and in an Introduction to Animal Farm indicated."

Although 1984 was a Cold War document that dramatized the threat of the Soviet enemy, and has always been used mainly to serve Cold War political ends, it also contains the germs of a powerful critique of U.S. and Western practice. Orwell himself suggested such applications in his essay on "Politics and the English Language" and even more explicitly in a neglected Introduction to Animal Farm. But doublespeak and thought control are far more important in the West than Orwell indicated, often in subtle forms but sometimes as crudely as in 1984, and virtually every 1984 illustration of Ingsoc, Newspeak and Doublethink have numerous counterparts in Amcap, Amerigood, and Marketspeak. The Doublethink formulas "War Is Peace" and a "Ministry of Peace" were highlights of Newspeak. But even before Orwell published 1984, the U.S. "Department of War" had been renamed the "Department of Defense," reflecting the Amcap-Amerigood view that our military actions and war preparations are always defensive, reasonable responses to somebody else's provocations, and ultimately in the interest of peace.

Furthermore, Americans have been much more effective dispensers of propaganda, doublespeak, and disinformation than the managers of Ingsoc in either 1984 or in the real world Soviet Union. The power of information control in this country was displayed during World War I in the work of the Creel commission, and in its aftermath the United States pioneered in the development of public relations and advertising. Both of these industries have long been mobilized in the service of politics. During the 1994 election campaign in the United States, the Republican "Contract With America" was formed with the aid of a consultant who first polled the public to find out which words resonated with them, and then incorporated those words in the Contract without regard to the Contract's substance.

This yielded, for example, a "Job Creation and Wage Enhancement" title for proposed actions that would reduce the capital gains tax.

Consider also the fact that in this country, as the element of rehabilitation of imprisoned criminals has diminished, the name of their places of incarceration has been changed from "jails" and "prisons" to "corrections facilities." Amcap represents a significant advance over Ingsoc.

The Role and Mechanisms of Thought Control

And a good case can be made that propaganda is a more important means of social control in open than in closed societies. In the former, the protection of inequalities of wealth and power, which frequently exceed those in totalitarian societies, cannot rest on the use of force, and as political scientist Harold Lasswell explained back in 1935, this compels the dominant elite to manage the ignorant multitude "largely through propaganda." In his 1922 classic, Public Opinion, Walter Lippmann also argued that "responsible men" must "manufacture consent" among the thoughtless masses in the "national interest."

The claim that such collective action is impossible in a free society, and that it implies some form of conspiracy, is mistaken. This claim is refuted both by the record of collective action-to which I devote most of my remarks here and in the larger paper from which this is drawn--as well as by an examination of how Amcap is implemented. Amcap works in part because the responsible men (and women) own and run newspapers, TV stations and networks, and the other power centers in society. They manage national affairs, and "crises in democracy" are identified by the fact that, as in the infamous 1960s, important sectors of the usually apathetic general population organize and press hard for recognition of their needs. The power of this responsible elite is also reflected in systems of thought as they dominate the flow of advertising and the work of public relations firms and thinktanks, as well as controlling access to the mass media. It takes only a small extension of Beckerian analysis--which insists on economic motives explaining virtually anything--to explain how a powerful demand for particular lines of economic thought should elicit an appropriate supply response.

This system of thought control is not centrally managed, although sometimes the government orchestrates a particular propaganda campaign. It operates mainly by individual and market choices, with the frequent collective service to the "national interest" arising from common interests and internalized beliefs. The responsible men (and women) often disagree on tactics, but not on premises, ends, and the core ideology of a free market system. What gives this system of thought control its power and advantage over Ingsoc is that its members truly believe in Amcap, and their passion in its exposition and defense is sincere. In their patriotic ardor they put forth, accept, and internalize untruths and doublethink as impressive as anything portrayed in 1984. But at the same time they allow controversy to rage freely, although within bounds, so that there is the appearance of fully open debate when it is in fact sharply constrained. And if the responsibles agree that the "national interest" calls for a military budget of $268 billion, this is not even subject to any debate whatever, even though studies of public opinion have regularly shown that the "proles" would like that budget sharply cut.

Occasionally the powerful do use the police and armed forces, and sometimes covert programs of disinformation and disruption--as in the CIA's Operation Chaos and the FBI's Cointelpro programs--to keep oppositional movements under control. More often still are propaganda campaigns to sell policy to the general population. In 1983--only one year before 1984--the Reagan administration organized a so-called Office of Public Diplomacy to sell its war against Nicaragua to the media and general public. Run by a CIA specialist in psychological warfare, it was explicitly designed to demonize the Sandinistas by tactics that included the spread of disinformation. An office to engage in covert "public diplomacy" with the American people, its specific program titled "Operation Truth," sounds like something straight out of 1984. But it was successful, as the media rarely if ever mentioned or criticized the OPD or Operation Truth, and they accommodated to its program.

One manifestation of this accommodation provides us with an almost perfect illustration of doublethink in action. The Reagan administration wanted to build public support for the government of El Salvador, so it sponsored elections there in 1982 and 1984, in which it featured the high voter turnout and long lines of smiling voters, and played down the legal requirement to vote, the destruction of the two independent newspapers, the ongoing state terror, and the inability of the left to enter candidates. In the very same time frame, the Sandinista government of Nicaragua held an election, but here the Reagan administration wished to deny that government legitimacy, so it used a different set of criteria to judge that election. Here it ignored the high turnout and smiling voters (and the absence of a legal requirement to vote) and focused on the harassment of La Prensa and the voluntary refusal to participate by one oppositional candidate (who was on the CIA payroll). In a miracle of doublethink, forgetting a set of electoral criteria "and then, when it becomes necessary again, to draw it back from oblivion" (163), the New York Times and its confreres followed the Reagan agenda and called the Nicaraguan election a "sham" on the basis of criteria they had completely ignored in finding the Salvadoran elections heart-warming moves toward democracy.

Amcap and Amerigood and Their Problematics

There are two dominant strands of thought in Amcap. One is that America is a global paterfamilias that does good and pursues benevolent and democratic ends. This has a Newspeak corollary that we may call Amerigood.

The second strand of Amcap thought and ideology is the belief in the "miracle of the market" and the view that the market can do it all. In this system of thought, and in its Newspeak counterpart, Marketspeak, the market is virtually a sacred totem, "reform" means a move toward a freer market irrespective of conditions or effects, and accolades to and proofs of the market's efficiency crowd the intellectual marketplace. This system corresponds closely to Orwell's "goodthink," a body of orthodox thought immune to evidence, and it approximates Orwell's view of the outlook of

"the ancient Hebrew who knew, without knowing much else, that all nations other than his worshipped 'false gods'" (232).

There has been a major conflict between Amerigood and Marketspeak, however, in that market openings and a prized "favorable climate of investment" have often been expedited by military leaders willing to destroy trade unions, kill social democrats and radicals, and ruthlessly terminate democracy itself. The United States has very frequently supported those serving the market at the expense of human rights and democracy. But Amerigood and Marketspeak have met this challenge brilliantly, with much greater efficiency than Ingsoc and Newspeak ever met the needs of the Soviet Union.

Resolution by definition. One mode of handling the problem in Amerigood is by an internalized belief system in which words with negative connotations simply cannot be applied to us. Thus this country is never an aggressor, terrorist, or sponsor of terrorism, by definition, whatever the correspondence of facts to standard definitions. Back in May 1983, for five successive days the Soviet radio broadcaster Vladimir Danchev castigated the Soviet assault on Afghanistan, calling it an "invasion" and urging the Afghans to resist. He was lauded as a hero in the U.S. media, and his temporary removal from the air was bitterly criticized. But in many years of study of the U.S. media performance during the Vietnam War I have never found a single mainstream journalistic reference to a U.S. "invasion" of Vietnam or U.S. "aggression" there, although the United States was invited in, like the Soviets in Afghanistan, by its own puppet government lacking minimal legitimacy. There was no Danchev in the U.S. media. Here, as in Ingsoc, where "Big Brother is ungood" was "a self-evident absurdity" (235), the notion of the United States committing "aggression" was outside the pale of comprehensible thought.

Resolution by forgetting and remembering according to need. The intellectual mechanism of forgetting and remembering according to momentary need is also urgently important, as in Amerigood this country favors and actively promotes democracy abroad, whereas in practice it supports democracy only very selectively. The pro-democracy stance can be emphasized when the United States attacks Cuba and passes a "Cuban Democracy Act," but the media do not discuss and reflect on the absence of a "Saudi Democracy Act" (and the presence of U.S. troops in Saudi Arabia to protect that authoritarian regime) in the same or nearby articles.

In the case of the steadfast 32 year U.S. support of Suharto's military regime, or its support of Marcos's dictatorship in the Philippines, it was necessary to forget that the United States was devoted to democracy, as long as these tyrants delivered a "favorable climate of investment." But once they ceased to be viable rulers, suddenly the U.S. concern for democracy moved front and center, and this could be done without the mainstream media dwelling on the long positive support of autocracy, or

looking closely at any compromising elements in the shift (such as continued support for the Indonesian army). In both cases, also, the media suddenly discovered that Suharto and Marcos had looted their countries (and U.S. aid) on a large scale, a point that had somehow escaped their attention while the looters were still serving the U.S. "national interest." This is a virtual media law, and displays their dependable service in forgetting and remembering.

Resolution by a resort to the "long run". The "realists" and Marketspeak philosophers who believe that "what's good for America is good for the world" have a different way of reconciling U.S. support of dictators and state terrorists with the U.S. devotion to democracy. They argue that the support for a Castillo Branco in Brazil or Pinochet in Chile is pro-democracy because the freer markets they introduce will serve democracy in the long run. In Marketspeak there is in fact a strong tendency to make "freedom" synomymous with freedom of markets rather than political (or any other kind of) freedom. This tendency, plus the complaisance and even enthusiasm at the termination of democracy in the short run, suggests that elite interest in a "favorable climate of investment" may be stronger than any devotion to democracy. The realists' case also suffers from its use of an argument long projected on to Big Brother: namely, that ugly means are justified by a supposedly benign end and do not themselves contaminate and even contradict that end.

Resolution by "disappearing" people. In the world of Ingsoc individuals become "unpeople" and simply disappear. In Amcap we have a comparable phenomenon whereas entire populations become expendable for political reasons, effectively "disappear" from the mainstream media, and can be massacred or starved without political cost. When the United States fights abroad, U.S. deaths are politically costly and must be avoided. From the Vietnam War era onward this has resulted in the increased use of capital intensive warfare, that reduces U.S. casualties but increases those of enemy soldiers and their civilian populations. But those casualties have no domestic political cost, and official and media reporting of such losses is exceedingly sparse if not absent altogether. This permits large scale killing of target forces and civilians who have been rendered "unpeople." It also permits entire populations to be held hostage and starved to achieve some political objective. When Secretary of State Albright replied to a question on the costs and benefits of the estimated death of half a million Iraqi children as a result of sanctions by saying that this "was worth it," her calculus rested in part on the fact that with the help of the mainstream media the Iraqi children were "unpeople" whose deaths involved no political costs to U.S. leaders.

This process of dehumanization is also evident in the treatment of client state terror and mass killings. When Pol Pot killed large numbers in Cambodia between 1975 and 1978, official and media attention and indignation were great. When in the same years Indonesia invaded East

Timor, killing an even larger fraction of the population than did Pol Pot, media attention was minimal and fell to zero in the New York Times as Indonesian terror reached its peak (1977-1978). Indonesia was a U.S. client state providing a favorable climate of investment, and the mainstream media treatment of the East Timorese as an unpeople was closely coordinated with U.S. policy. Even more dramatic, when the priest Jerzy Popieluszko was murdered by the police of Communist Poland in 1984, U.S. official and media attention and indignation were intense. In fact, media coverage of the Popieluszko murder was greater than its coverage of the murder of 100 religious victims in Latin America in the 1970s and 1980s taken together, even though eight of these victims were U.S. citizens. Popieluszko was a "worthy" victim, as he was killed by an enemy state and propaganda points could be scored against the enemy; the 100 religious in Latin America were killed in U.S. client states, and were therefore "unworthy" because attention to their victimization would have been inconvenient to U.S. policy ends. This channeling of benevolence toward Polish victims (and victims of Pol Pot) and away from victims in our own backyard (and in East Timor) thus had a dual role: it made it possible for the leaders of the National Security States (and Indonesia) to kill large numbers with quiet support from the United States, and this could be done without disturbing the ideology of Amerigood.

No agreements with demons possible. Let me give just one other illustration of an Ingsoc analogue in Amcap, before I turn briefly to Marketspeak. In Ingsoc, "any past or future agreement with him [the demonized enemy] was impossible....The Party said that Oceania had never been in alliance with Eurasia. He, Winston Smith, knew that Oceania had been in alliance with Eurasia so short a time as four years ago." (29) In Amcap things are done more subtly. We simply pretend that our high moral stance in fighting the demon represents continuous policy, and the mainstream media cooperate by not discussing the subject. After Pol Pot was overthrown by the Vietnamese in December 1978, the United States quietly supported him for more than a decade, giving him aid directly and indirectly, approving his retention of Cambodia's seat in the UN, and even bargaining to include him in the election process of the 1990s. The U.S. media kept this support for the demon under the rug. The U.S. invaded Panama and captured Noriega in 1989, allegedly because of his involvement in the drug trade, but actually because he failed to meet U.S. demands for support in the war against Nicaragua.

Noriega had been involved in the drug trade for more than a decade previously without causing any withdrawal of U.S. support. The mainstream media did not discuss the earlier agreement with the demon.

Saddam Hussein became "another Hitler" on August 2, 1990, when he invaded Kuwait. All through the prior decade he had been given steady U.S. support in his war against Iran and after. He had received billions in loans,

access to weapons, intelligence information on Iranian military deployments, and he was not ostracized because of his use of chemical weapons against Iran and his own Kurds. Following August 2, 1990, when he became an enemy, it would be difficult to find in the mainstream media any reference to the fact that this demon "had been in alliance with the U.S. as short a time ago as" August 1, 1990.

Marketspeak

As in the case of Ingsoc, Marketspeak serves to consolidate the power of the dominant elite. In Ingsoc, the claim that Big Brother could do it all served Party domination, Party economic advantage, and helped contain the incomes of the Proles. Marketspeak does the same for the dominant elite in America. Ingsoc helped assure "that economic inequality has been made permanent" (157), and Marketspeak has done the same here, even facilitating its substantial increase in recent decades.

In fact, in an interesting turnabout, the supposedly permanent condition of the victims of Ingsoc has proven to be impermanent, whereas the victims of Amcap and Marketspeak in both the former Soviet Union and the West have been placed in the condition where, as Mrs. Thatcher so happily pronounced, "there is no alternative." The power of capital and finance to dominate elections, to limit policy options by the threat of their enhanced mobility, and their domination of the means of communication, has seemingly ended challenges to the policy dictates of capital. Under the regime of Ingsoc "there is no way in which discontent can become articulate" (158). Under the regime of Amcap and Marketspeak as well there is no way discontent can materialize in meaningful political choices or programs; rather, they will be channeled into bursts of anger and scapegoating of "government" and other convenient targets.

Under the regime of Ingsoc, the Proles were kept down by "heavy physical work, the care of home and children, petty quarrels with neighbors, films, football, beer, and above all gambling." (56) Orwell mentions TV as a valuable diversionary instrument for keeping the Proles in line. The transformation of U.S. commercial broadcasting into an essentially entertainment vehicle, and its virtual annihilation of any public service and public sphere role, is Amcap's and Marketspeak's clear improvement over the primitive workings of Ingsoc. The growth of lotteries and casinos, partly driven by capital's pressure on governments to seek funding outside of taxes, also improves on Ingsoc's methods of providing Prole diversion and depoliticization.

Under the regime of Amcap and Marketspeak, the Proles are kept down not only by physical work and diversions, but also by insecurity. In 1995, Fed Chairman Allan Greenspan explained to congress that the inflation threat was minimal because of a generalized worker insecurity, which he presented as a bonanza, although such insecurity would seem to be in itself a serious welfare detriment, on the assumption that the condition of the Proles was

an important policy goal. His instrumental view of the Proles can also be seen in economic theory, where the "natural rate of unemployment" ties inflation (the bad) too excessive wage demands on the part of the Proles.

This view of Prole wage increases as a threat to the national interest is a throwback to mercantilist attitudes and doctrine, where high wages were deemed bad "because they would reduce England's competing power by raising production costs," in the words of the historian of mercantilism, Edgar S. Furniss. He notes that in this class-biased view of the national interest "the dominant class...attempt[ed] to bind the burdens upon the shoulders of those groups whose political power is too slight to defend them from exploitation and will find justification for its policies in the plea of national necessity." In this mercantilist and Marketspeak view of the Proles, as a cost and instrument rather than a group whose well-being is the policy objective, the Proles, like citizens of an enemy state, become "unpersons."

The accommodation of economic science to the demands of Amcap and Marketspeak have been extensive, and in many of these cases the intellectual abuses and somersaults carried out to salvage Marketspeak are similar to those used to defend Ingsoc. I have time here for only one example. During each merger wave from 1897-1903 onward Marketspeak economists have found the movement to be based on efficiency considerations, and downgraded the importance of other bases of merger activity and any negative effects on competition. They struggle valiantly to prove that the market works well. In recent years they have done this by measuring the efficiency of mergers on the basis of stock price movements before and at the time of the merger, not post-merger results, although stock price measures suffer from problems of timing, contamination by influences other than efficiency, and are at best indirect. In one classic of this genre, by Jensen and Ruback ("The Market For Corporate Control: The Scientific Evidence," 5 Journal of Financial Economics 30 [1983]), the authors as an afterthought did look at post-merger financial results, which turned out to show "systematic reductions in the stock price of bidding firms following the event." They concluded that such results "are unsettling because they are inconsistent with market efficiency and suggest that changes in stock prices during takeovers overestimte the future efficiency gains from mergers." But as Marketspeak says that free market behavior enhances efficiency, the authors did not allow those "systematic" findings to alter their conclusions.

Conclusion

Ingsoc has had a potent replacement with Amcap, and Amcap has actually taken on more vitality with the death of Ingsoc. It can claim that not only have freedom and liberal democracy triumphed over tyranny, but that doublethink and thought control have also ended with the close of the system of tyranny. But that claim has little basis in reality. Freedom and

liberal democracy are increasingly constrained by a power structure that sharply limits any actions helpful to the Proles. And in the increasingly inegalitarian system that prevails, Amcap, Amerigood and Marketspeak have a more important role to play than ever. They have been doing their job--"largely the defense of the indefensible" as Orwell put it--with a sophistication and effectiveness that Ingoc could never command. This immensely powerful system of thought control should get the credit and recognition that it deserves.

Footnote
This is an abridged version of a more extensive and footnoted paper delivered at the Conference on "1984: Orwell and Our Future," University of Chicago Law School, November 12, 1999

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Information Should be Free

An interview with Eveline Lubbers [11.06.2002]

Eveline Lubbers is an investigative reporter and specialized activist living in Amsterdam. She co-founded Buro Jansen & Janssen and told World-Information.Org about her view on the role of information in democratic societies.

Q: You are co-founder of Buro Jansen & Janssen. What was the aim, when you established it?

A: Well, Jansen & Janssen was founded in the early eighties. At that time there was a strong squatter movement in Amsterdam and activists needed support in their confrontations with the police. There were riots in the street, but there were also attempts to infiltrate the movement. So we thought it was a good idea to study the strategies of the police and explain people about it. This was the beginning.

Q: How did you study the police's strategies? And in which way did you communicate your findings to the activist community?

A: We set up an archive that grew very fast. We collected clippings from newspapers, but also started to read police reports and Dutch as well as foreign special magazines dealing with the subject. Moreover we wrote articles that in the beginning were mostly published in activist media.

Yet, the whole thing very quickly grew into something like a general research collective. So we started to make books and published our own research with a publishing house that was founded by squatters. For instance I published a paper on how the police tried to infiltrate the activist movement and find informers.
Q: Did your research have any consequences in the public arena?

A: Well, at the end of the eighties the movement faded away and we changed into a general research office to monitor police and intelligence. Buro Jansen & Janssen started to write for mainstream media and did research for radio and television. Nowadays journalists often ask us for help. They want to know our opinion, because we are very specialized. We now do opinion articles for mainstream media that really make a difference.

Q: Was there any special event that triggered this development?

A: There was a parliamentary research commission into the war on drugs in the Netherlands. There were special police forces that had to deal with it and - well it's a long story, but the bottom line is that they went into drugs themselves to infiltrate drug gangs. And this got out of hand. So there was a research commission which did public hearings and research for months and in the end they came out with a report of approximately 5,000 pages. But although it was a parliamentary document you had to pay a lot of money for it.

Q: So, it was not publicly available?

A: No, you had to pay NLG 1,000 to get it and there was also no index of names in the printed version so in order to be able to study it you had to buy the CD-ROM, which was another NLG 1,000. The problem with it was that in the Netherlands the state's publishing house has the copyright not on the material, but on the layout. So you can't just copy public material and make it available on the net. But as it was a CD-ROM the situation was different. With the help of hackers we managed to free the text from its layout and then publish it on the net. What we did not know was that at the time there was a big discussion on the availability of public material and how the government would have to use the Internet. And with our action we interfered in this debate and made front pages.

Q: Did this have consequences?

A: Well, I think it accelerated the discussion and also influenced the way the government now sees that it has to put public information on the Internet.

Q: In your opinion, does the evolution of digital media rather foster or break that kind of information monopolies?

A: It should break information monopolies. I think the (hacking) techniques available offer many possibilities that are not used often enough. In my dreams I see a net activist collective developing new tactics for online research. A Dutch activist researcher recently uncovered the internal minutes of meetings between the British government and the corporate world. The minutes reveal that government officials have allied with business in planning a campaign to defeat civil society opposition against the WTO services negotiations. These minutes were found by carefully scrutinizing a website to find pages that where no longer linked, but still available if you knew the URL. A very inspiring example!

Q: Will recent copyright developments influence the access and availability of information?

A: Yes, definitely. At Jansen & Janssen we were so happy to be able to stop the cutting and archiving of clippings from the daily newspapers. But now the police library service that provided us with assorted clippings on juridical subjects on a CD-Rom every three months, can no longer include these papers, because of copyright issues.

Q: Generally, how do you see the role of information for democratic societies?

A: All information should be free! Within the limits of privacy protection of course, but information about affairs that affect us all, about government rule and corporate practice should be available in a accessible way, analyzed and made understandable by those who provide it, or those who freed the information.

Source:
http://world-information.org/wio/issues/992006691

Cyborg Society

An interview with Chris Hables Gray [05.07.2001]

Chris Hables Gray is an Associate Professor of the Cultural Studies of Science and Technology and of Computer Science at the University of Great Falls in Great Falls, Montana. He studies cyborology (cybernetic organisms) and spoke with Wolfgang Sützl about cyborgs and their implications.

Q: What are the main subjects of the book you are working on right now?

A: The title of the book is going to be "Information, Power, and Peace". It is going to analyze how information technology is changing political activism. In particular, I am very interested in these arguments that these new technologies create an opening, or an advantage for changing society. I am ambivalent about that. I think there is some truth to it, but I don't think it is as simple as those who defend that whole cyber democracy idea believe. I want to write a lot about what real peace would be like, as a long time peace activist I believe that many people have too simple an idea of what peace is. It is not just the absence of war. I am going to examine closely that whole question of technological determinism, and social construction, to what extent technology has locked us into a political situation and determines the future, to what extent we are free from that, and to what extent we could socially construct technology if we want and to what extent we cannot. Because that would determine very much, I think, to what extent we can have a livable future as opposed to a horrible future.

Q: Before turning to these issues, you became internationally known as the editor of the Cyborg Handbook. On your website you call yourself a "cyborgologist", and your most recent book, " Cyborg Citizen" is also about cyborgs. What exactly is a cyborg? Where does it start? To what extent does the human body have to be integrated into a technological system in order to qualify as a cyborg?

A: The actual definition is by Manfred Clyne, an Austrian who went to Australia and the migrated to the United States. Technically, to be a cyborg system you have to have some mechanical component integrated into an organic system (or vice-versa) so that it is operated homeostatically, without any conscious interference. I have noticed that when people first encounter the idea of the cyborg, they want to know exactly what a cyborg is, but along with my friends such as Donna Haraway, who I worked with and who is my mentor, think that it is more important to take a bigger view. The evolution of humans can be analyzed by looking at how humans used tools. And that tool use really distinguishes us from other creatures. Marx called humans homo faber, "man, the tool user". We use more complex sort of systems, we have language, culture, the use of fire. About 3000 years ago humans started living together in bigger and bigger agglomerations, you could even call them machines, although they are called cities, Mumford points out how cities and armies are very much like machines. So I would argue the first humans used tools and started integrating them in their systems. We need tools to survive. Way far back people have dreamed of integrating tools into our body. The earliest prosthesis are talked about by the ancient Greeks, 2500 years ago. There are many myths too, of gods who have artificial legs and so on. The Golem of the Jewish tales is very much a cyborg, it is a system that is both organic and inorganic. So now I argue, along with some of my friends, that we have reached a new level in our relationships to tools and machines. We are becoming integrated into them and they are integrated into us.

The Network Society of Control

Anyone who has been vaccinated is technically a cyborg, because their immune system has been reprogrammed to deal with certain stimulae, as if they were computers. Take my children, for example. The way my sons live their lives, and their integration into machine environments shows that they are living in a cyborg society. The important point is that we live in a cyborg society. My definition of a cyborg is that it is any sort of coherent system that has both components that are artificial and natural, living and dead, evolved and invented. A cyborg does not have to be conscious. For example, people who are legally dead but kept alive through machines are cyborgs, a biocomputer that stores information in some sort of biological construction is a cyborg, a genetically engineered cell, a mouse that has an automatic pump attached to it is a cyborg, the Golem is a cyborg.

A number of people have observed how the division between the machinic and the natural is dissolving, for example David Channell in his book The Vital Machine. He argues that there have been two great discourses. One is the great chain of being, where everything is alive, and this is actually the way many Native Americans still see the world, and the other perspective is the clockwork universe, in which all reality works like a big clock which is very much the western scientific view ...

Q: ... the Newtonian Universe ...

A: ... and according to Channell, these two points of view are being integrated into what he calls the vital machine. The machines are alive, we are living machines, machines have a certain vitality of their own.

Q: This has important political and legal implications, which you address in your "cyborg bill of rights". You said previously that a cyborg does not have to be conscious. But how can a being that is not conscious be a bearer of rights? What kind of institutions and language are required by a cyborg society?

A: The cyborg bill of right is only for conscious cyborgs. It is only for cyborgs that can meet the criteria for citizenship. Historically, one of the main ideas of citizenship has been the ability to participate in political discussions in the polis. In ancient Greece, you had to be a soldier and fight for your city state in order to be a citizen, which is not an idea I want to totally discard. I argue in my book that in order to be a good cyborg citizen you need to commit yourself to your political community, which is now the earth as a whole.

And there needs to be a serious commitment that is more than voting a little; you have to be willing to sacrifice yourself. Killing is not a very effective political approach, so I am not saying we need to be killers or soldiers, but you need to be willing to risk your life for your community.

Otherwise we won't have a strong enough political community to deal with the incredible forces that technology is producing. Advances in technology are just so intense. The power that will go to centralized authority ... from the ability to read minds to biologically controlling people with psycho pharmaceuticals, the surveillance society ... So if we don't have a much more proactive type of citizenship we're doomed.

Q: Some people would say that this is an overly optimistic point of view and would argue that the whole idea of cyborg and the integration of body and technology is actually rooted in military thought, in the idea of adapting the human body to the standard of perfection and control of a machine that cannot fail. Your perspective seems to be more of an emancipatory and positive one.

A: There is no doubt that one of the major sources of the cyborg is the military, because of the whole paradox of contemporary war. War is now too complex for machine intelligence, and too fast and deadly for human bodies, so man - machine systems have been created. Another source of cyborgisation is the capitalist impetus that leads to a more effective integration of workers in their environment. And that can be very dangerous. But I am not optimistic - if you ask me what are the chances that we will have a wonderful future as opposed to a horrible future or no future at all, I would say the latter is more likely. But I do think there is a chance that we can have a livable future, and that won't be by stopping technology. I am not a technological determinist in general, but we are not going to stop technology, and we are not going to stop cyborgisation. It's overdetermined, there's too many forces pushing for it - not just the military and work, there are the fantasies of young people, and everyone's fear of illness and death, another source of cyborgisation.

There is this giant ethical debate that tries to determine which technologies should be developed and which not. That is very good and healthy. But the problem is that a lot of these experiments that people think are wrong are happening in secret anyway, by the military, by capitalist corporations hiding out in Mexico or somewhere, which will do human cloning, and will do other things that people find horrible. So we need a much more effective way of dealing with these issues, non-governmental or cooperative bodies that try to prevent the development of technologies that are horrific.

But first of all, we need to stop putting massive amounts of public resources into creating technologies that are designed to enslave or destroy us, such as all of these military technologies - star wars, better human-machine interfaces for weapons, better training, better use of drugs. All of this is meant to destroy other humans or even ourselves and is a tremendous waste of resources. But it all gets back to the political process, and the only way that we are going to survive is that people

become much more active. A cyborg citizen is not necessarily a cyborg, as I said, but a cyborg citizen really has to be a citizen who is very proactive and very much involved in shaping political realities. The pace of technological changes is too powerful, and the forces that want to take technoscience into horrible directions are too numerous and too powerful and they will make tremendous profits and accumulate enormous power if they are successful. So we need a much more active citizen, and that will be a cyborg citizen.

Q: Do you think there are any new forms of dependence involved in the cyborgisation. Many would argue that the more technical you become, the more technology is integrated into yourself, that you become dependent on forces you cannot control. For example, I cannot fully control whether the vaccination I get is actually going to have the desired effect..

A: I think what would be wise for people to do is reflect on the whole human races long-standing relationship to technology. How well would Paleolithic people have done without fire or without spears? And if you take Neolithic humans, who were the early agriculturalists, look on how dependent they were on the weather. Even now in Montana, where I live, a lot of my friends are ranchers and are totally dependent on the weather. So we are already dependent on nature, and we are dependent on our tools. There is a danger when we become dependent on these technologies, but for example my partner, the mother of my children, she had an overactive thyroid, if she had not gotten medical treatment for that, she would have been dead at ten. Now she is totally dependent on artificial thyroid, but otherwise she would be dead. Many older people would be dead without technology ... but what do you say: better be dead then dependent on these technologies? What you really have to do is be very conscious, and this is part of what being a cyborg citizen is, being conscious of what is being done with you. The Internet makes it easier for us to challenge the experts. I see a lot of advantages to these kinds of technologies. But you have to be a conscious consumer of new technologies.

Q: So we are also talking about an educational projects, so that people can actually become conscious consumers.

A: Education is crucial. The two main things are education - how people learn - and access to information. The Internet must be kept open, so that it is possible for everyone to post information, so that it cannot turn totally into a market place ....

Q: If the cyborg citizen is a proactive and educated citizen, could cyborgisation be understood as a strengthening of subjectivity? You don't seem to advocate a protection of the subject against the onslaught of technization, as many of the early 20th century thinkers did. Is the cyborg still a subject, or is he / she cyborg and "overman" in the sense of Nietzsche?

A: In her excellent book How We Became Posthuman, N. Katherine Hayles argues that the post-human, which is of course the cyborg, represents a chance to actually fulfill the Enlightenment idea. To her, the subject idea is a failure, because we are supposed to be subjects politically, but we are not, we are consumers, not citizens. According to Hayles, posthumanism allows us to develop real subjectivity, but that subjectivity is not unitary - going along with the whole postmodern critique of totalizing narratives - and I agree with that. But I would still say that fundamentally even a cyborg or a posthuman is a subject in the sense that we have one body. There are many people - Stelarc is a good example, they really want to go beyond the body. People like the Extropians, they are really committed to becoming posthuman in a way that is no longer human, and a lot of people would say there is no subjectivity, and I argue with some of my friends about this. There is a book out that includes an article of my friend Heidi J. Figuroa-Sarriera, who co-edited the Cyborg handbook with me, Cyberpsychologies by Angel J. Gordo Lopez, where the authors raise the question what is subjectivity in the age of cyborgs from a psychological point of view. In the Cyborg Handbook some people write about the political subjectivity of cyborgs. I don't believe we are going to get to having no subject at all. But if things turn out in a really bad way we will just become objects. We will just become machines, workers, consumers, soldiers, and any real autonomy that we have can be taken away technologically.

Q: Does cyborgism require a new sense of religiousness? Is it necessary to declare a safe zone of humanness that cannot be penetrated by technology.

A: That would be a mistake, because every zone will be penetrated by technology.

Q: In the Cyborg Bill of Rights, you make use of the word "sacred" ... my body is "sacred" .... theological terminology seems to be experiencing a revival within the cyborg discourse.

A: What I mean is your body, individually, and this gets back to that I still believe we are subjects. In order to be a good cyborg you have to be a subject and not just an object of your life, you have to take action. So if you don't want your body modified, then I would say you can keep part of your body, whatever part you want, safe from technology. My suspicion is that very few people will do that, especially since invasive medical technologies will be so handy, nano-robots killing cancer cells, for example. Few people will want to die at 70 when they can live healthy until 150. It's your body, and you should be able to prevent interventions. If the government wants to put a chip into everybody's body, for example.

Q: Sacredness then stands for autonomy over your body rather than an

overriding value.

A: Yes. But if some people belonging to the Catholic Church, for example, all agree that our bodies are sacred as a fundamental value, that's fine with me. And perhaps in 500 years from now these Catholics will still be normal humans while most other people will be very transformed. I suspect that it is very likely that some people will choose not to be modified, but I suspect they will be a minority. And it is really possible that their ability to operate in the society of the future will be very compromised, if they refuse all kinds of interfaces with technology, which most people use as a matter of course. Imagine people who rejected all technologies - not only would their lives be brutish and short, they would spend their time working all day, doing menial work, get sick, die. There is a lot of freedom in technology. It is because of technology that we all live relatively well - here in Austria, for example, everyone lives like they were a Habsburg emperor ...

Books by Chris Hables Gray
- The Cyborg Handbook (ed. with Heidi Figueroa-Sarriera and Steven Mentor, 1995)
- Technohistory (1996)
- Postmodern War (1997)
- The Cyborg Citizen (2001)

Related Resources
- David F. Channell, The Vital Machine. A Study of Technology and Organic Life, 1991 (Oxford University Press)
- Donna Haraway, Simians, Cyborgs, and Women: The Reinvention of Nature, 1991 (Free Association Book)
- N. Katherine Hayles, How We Became Posthuman, 1999 (University of Chicago Press)
- Angel J. Gordo Lopez & Ian Parker (eds.), Cyberpsychologies, 1999 (Routledge)

Source:
http://world-information.org/wio/issues/992003309

The Threath to Privacy

An interview with Saskia Sassen [01.12.2000]

Saskia Sassen is Professor of Sociology at the University of Chicago. She

is the author of several books on the political economy and the sociology of cyberspace and on globalization. Sassen is most widely know for her concept of the global city (The Global City, Princeton University Press 1992), her most recent book publication is "Globalization and its Discontents" (New Press, 1999). In her lecture at the WIO World InfoCon at Brussels, 13 - 15 July, 2000, she spoke about the "Topography of E-space - electronic networks and public space"

Q: Saskia, in your lecture you were distinguishing between private and public access to networks. How real do you think is the threat to privacy in the global electronic networks?

A: I think we need to reconsider this phrase: the threat to privacy. What you are really dealing with is a set of information that is constructed as private, and hence can be sold by those who are giving access to it, who is not us, we, who produce that particular set of information. It is not so much the threat of somebody knowing all my identity features that concerns me. What concerns me, is that there are firms who are making money of this, that is what I find the truly abusive issue.

Q: The issue of privacy needs to be re-phrased as an issue of privacy construction?

A: The way we have constructed the realm of privacy especially in the Anglo-American world is highly problematic. There are issues of privacy that are very important, there are abuses of privacy, but right now what I consider the most pernicious issue is that the way privacy and privacy protection has been constructed makes it possible for governments to abuse their intelligence apparatus, and for firms to commercialize private information about us. I am far more concerned about that, than about people having wide spread access to all kinds of things about myself, e.g. my preferences in reading, in food, my age, my race, my gender. On some level all of this is of little interest as long as you don't have big corporations or intelligence agencies using and manipulating this information precisely because it has been constructed as private.

Q: How do you assess the possibilities of civil society resources in this realm. You have put forward a cautiously optimistic view regarding the potential of civil society structures in digital space.

A: I am doing critical readings and interpretations of what is going on. I have documented at length the enormous power, not just the actual raw power of large corporations and global markets, but also their capacity to produce new norms. I am always very aware of the enormous power that is concentrating in certain actors, like big firms and powerful markets. But I oppose the view that because of such power concentrations we cannot do anything.

The power of these firms and markets has been created, it has been constructed; if that is the case, it is not a natural condition and hence we can invent tools and design policies that could make it possible to engage some of that power at least. Civil society is a big empty word if it is just used that way. But civil society stands for a multiplicity of organizations, of civil initiatives, of activist groups, of stories that are circulated. In this sense, we cannot give it away, we have got to believe that this very general and almost void term is one way of naming a complex reality made up of diverse groups, including very problematic ones in my view, that we are really dealing with something that is real. The term civil society, certainly global civil society, risks distorting the reality because it is right now an empty word.

The Network Society of Control

Q: One thing that intrigued me in you presentation is how you described the digitalization of the economy. There are reports that suggest that 97 % of the financial transactions of the world economy have no real basis. Huge transfer of money are re-transferred within a very short time; it has become exceedingly difficult to relate such transactions to what we generally think are "real" economic processes. What are the limitations of this virtualization?

A: I emphasize digitalization rather than virtualization, because digitalization keeps us at least connected to a kind of material reality. It may not be the "real" economy, but it is the materiality of the infrastructure that is necessary to have this incredibly digitized world. Digitalization reminds us that it is not like the virtual environments generated by architects in their studios, which are truly 100 % generated realities.
The reality of global finance is not a 100 % computer-generated reality and this is what I want to recover. There is a lot of materiality there. Emphasizing digitalization rather than virtualization is also a way of saying that it remains connected to certain aspects of a real economy. What digitalization has made possible is maximizing the distance through the invention of new instruments, new types of markets, between that financial capital and whatever the real economy is. I very purposefully use the term digitalization, because it reminds us of the work of transforming that economical reality into a digital reality.

What is the connection with the real economy? It varies. In same cases the distance is closer than you might think. The shares that are bought and sold on financial markets, that represent the oil industry and large manufacturing complexes, the pharmaceutical industry etc. are really a different kind of economic reality behind the financing of it.

With some of the dotcoms, the distance is much longer and it is not clear what they produce. Again, in the case of Amazon.com, there is a reality of warehouses and trucks and books that are material. So the distance there is shorter, than with dotcoms that inhabit an in-between world, for example, producing software that neither here nor there. The speculative impulse has nothing to do with what a firm is producing, but with the fact that there is a financial imaginary that applies a value to it. You really buy a financial instrument that you then buy and sell repeatedly, no matter what the company is doing. There are different gradations. But at the limit there is a world of financial transactions so centered in speculative activity, in overvaluation and capturing the temporary imagination of investors around a certain set of issues, that we are talking about a very feeble connection with the real economy.

Source:
http://world-information.org/wio/issues/992006886

New Media and Dark Ages
by Konrad Becker

Post-modernized helplessness with bourgeois disorientation in neo-liberal markets achieves a lasting atmosphere of lack of perspectives that not only successfully hinders democratic development but above all suffocates interest in the political itself. The wide-ranging confusion and resignation after the 9-11 outbreak of the world war against "terror" is related to the inability of left world views to deal with the polycentricism and hypercontextuality of the new world. Even if utopias are not highly traded items these days and stagnation is inflationary, this is not yet the end of history....

Independent of the systems of social order, neither the model of the cynical liberty in democratic capitalism nor the agony of powerless equality in "real" socialism seems a valid answer to questions of liberty, equality and human dignity; also the statement, that society would, if only left to its spontaneous self run, due to technological innovations result in a development of equality and prosperity, is long disproved as a lie. These automatisms neither neutral nor natural, but historically caused follow the principle that private profit has priority above any social interest. This is the key in the entire set of rules of social relations, which also shows up in the info sphere and in aggressive colonizing of the Internet by multinational economic groups of interests. Although typically the strongest innovations of the net world were originally developed outside of competitive commercial market,(like the Internet itself, or also the most common search machine Google), the democratic development of the technology of a knowledge-based society is surrendered to the "invisible hands" of dark markets.

However after the parting of socialism a fundamental dispute on democratic capitalism has been missing and the critique of high-tech neo-liberalisms of the traditional Left is insufficient. Although, for example Richard Barbrook and Andy Cameron, in a well-known text, unveil the "California ideology" as political construct, their models appear hopelessly old-fashioned. It serves to show the helplessness of the traditional instruments of left politics to grasp the logic of intellectualized work in the network of pancapitalism. It seems that the established power structures know to use the new paradigms and technologies of knowledge based society often better than their critics. The distrust of traditionalists against new starting points of thought expresses itself in biting polemics against techno-nomadic thinking and of Deleuze and Guattari as "Neo-liberalisms for Hippies". But this conservative gesture of refusal towards all attempts to develop a critic at the height of time also prevents the emergence of new forms of resistance against incapacitating the subject in semio-capitalism. Therefore Franco Berardi Bifo, one the early theorists and pioneers of new media in the social context, pleads for a "critic of the everyday life", in which the effects of information

networks and conditions of the intellectualized work are sufficiently considered.

The conception that democratic rule is not to be regarded and does not count as rule has tradition, but unfortunately the use of majorities against fundamental human rights is no exception, also in western democracies. Abuse based on majority votes undermines confidence in majority decisions. Emancipation in the democratic age therefore also means protection from democratization as the power of others to impair or patronize the individual. And this is why a political position always existed, that aims to limit and to cut back power. The world-wide attention that the book "Empire" received can be explained with a general lack of an emancipatory critic of hegemonic dominance that takes into account changed social conditions. Even if it has been criticized for staying close to classic Marxist tradition, the necessity of new viewpoints and conceptualizations like "Multitude" nevertheless becomes clear. It is increasingly necessary to analyze contemporary capitalism as semiotic stream, to relocate the tasks of critic and to identify new possibilities of transformation and influence that put to use existing forces.

"For a generation of young technologists that have been indoctrinated into the religion of markets and the stockholder theory of value - and now it's all gone kablooey, they don't know what to do or what to believe." Paulina Borsook, author of the book "Cyberselfish" on the rise and fall of Silicon Valley, compares our times with the Dark Ages: Societal development has broken down completely. Technology was lost, invention mattered less and less, and alien kleptocrats creamed off societal wealth of generations in the making. Old knowledge was forgotten and there wasn't much space for the creation of the new. The very rich became very much richer, everyone else became poorer while various barbarian tribes and warlords ransacked and impoverished what remained of civilization. Borsook identifies the marauding hordes of those times with the transnational business of today. She compares Microsoft to what Christianity became in Byzantine time, the brutally state-imposed religion that tied people to their occupations and their land so their work and lives could never change. "Technology has gone out of fashion altogether, rather like the passing of the vogue for sensible philosophies such as Stoicism or Epicureanism."

In search for an advancement of emancipatory politics the historian and political scientist Christoph Spehr in particular asks questions about the conditions and the promotion of free co-operation in self determined spaces and relations. According to Spehr, author of the book "Die Aliens sind unter uns"(The Aliens are Among Us), we are in reality the victims of a genetic colonization of an Alien species, programmed to take over the democratic structures after the age of personalized rule. "It is the experience that people look at first sight like normal humans, as you and me, but follow a hostile program, which proves them as a member of an alien

species; their solidarity does not belong to you, but another order. They only look like humans. In reality they are Aliens". Their only goal is the continuation of control as dominant group, their program the appropriation of other nature and work. According to Spehr, the model of colonization of the Aliens for all modern social order systems between capitalism and socialism is the same. He describes them as new international class that advances a domination project and establishes this rule in democratic systems through civilians. The civilians are essentially steered by comfort and defined as "someone, who does not have a clue, is not interested in how things work, has no problem that decisions are made by others, and which does not even possess the necessary abilities to intervene". The Rebels and the "Maquis" stand in conflict to the rule of the Aliens. The Rebels, globalinformed postmodern collectives, fight against the Empire, but are not necessarily dedicated to emancipation and do not look not for an alternative logic of social relations.

The zone of the Maquis however does not follow the principle of profit and comfort and its social co-operation is based on continuously advanced release from rule and alien regulation. The media practice of the Maquis counters alienistic control of the public, its spaces and media. It refers to forms of networking and consciousness-raising and the promotion of direct, complex structures with which the vital dependence on alien interpretation and appreciation can be reduced and thus the potential for blackmail. The finishing sentence of the book expresses it as follows: "it is the work of the Maquis to give to the post-modern collectives the ability to, as Fox Mulder calls it, believe in "extreme possibilities". A world without Aliens, for example."

In the paper "A Virtual World is Possible" Geert Lovink and Florian Schneider sketch the phases of global movements "From Tactical Media to Digital Multitudes". They describe first the 90s as a bloom time for tactical media: emancipatory currents and cheaply available do-it-yourself equipment allowed creating original digital styles and an era of various and self-confident experiments that made possible alliances between art, activism and popular culture. In the time of 1999 to 01, the period of the large mobilizations, the convergence of world-wide organized discontent against neo-liberalisms and against exploitation, added a new layer of a globalizing "from below" to the hierarchical globalization "from above ". Although these new movements were primarily expressed in the somewhat traditional medium of the street protest nevertheless the buildup and the integration into a network of tactical media was a necessary precondition. These new co-operation forms without hierarchical monolithic structures and a variety of topics and identities represent an important development. In the academification of leftist theory the brilliance of the everyday experience and the forms of new subjectivity was lost dramatically, but state-sponsored privatization of the world in the hands of untouchable firm networks concerns everyone and resistance need not be ideologically or altruistically justified. The structural violence in democratic high-tech

capitalism is not only directed against those, who are excluded from this high-tech production cycle, the majority of mankind, but also against those, who are enclosed in the informational market cycle and exposed to increasing psychological pressure and an increasing depletion of their work and life-environment.

For the present Lovink and Schneider see the danger of moral self-marginalizing as one of the most substantial challenges. Both the real and the virtual protests are in danger to be stuck on the level of global "demo design" and no longer grounded in actual situations. That would mean that development never goes beyond "beta". Street demonstrations raise solidarity levels and spirits, but the question must be, what comes next... both for the new media and the new social movements. Instead of "reconciliation" between the material and virtual they demand the rigorous integration and implementation of social movements in technology and the necessity of implementing strategies, interfaces and standards.

As a substantial characteristic concepts of openness and freedom develop that are expressed in the dialectics of open source software, "open knowledge", Peer-2-Peer and the Digital Commons. However, this concept of liberty is no concession to neo-liberal ideology but refers to the democratization of access, decision-making and the distribution of knowledge and prosperity. Despite the compromising of electronic media by profit sharks and control freaks the outcome of some battles is still open. For good reasons Napster has been labeled the Viet Nam of the music industry... Electronic information networks are therefore still carriers of hope for an emancipatory information society and of a Cultural Intelligence for the Multitudes....

Source:
http://darkmarkets.t0.or.at/materials/newmediaanddarkages.htm

Building the Digital Commons

Main Entry: **common(s)**
Function: *noun*
Date: 14th century
1 *plural*: the common people
2 plural but singular in construction: a dining hall
3 *plural but singular or plural in construction*, *often capitalized* **a:** the political group or estate comprising the commoners **b:** the parliamentary representatives of the commoners **c: HOUSE OF COMMONS**
4 the legal right of taking a profit in another's land in common with the owner or others
5 a piece of land subject to common use: as **a:** undivided land used especially for pasture **b:** a public open area in a municipality

Source:
Webster on-line dictionary

A Concise Lexicon of / for the Digital Commons
by Raqs Media Collective [06.09.2001]

Access
The facility to log on and log in to a space or a network where people and meanings gather. To be present, to have the ability, the key, to decode a signal, to open doors, to be able to download/upload on to any system of signs and signals - be it the Internet, a book, an art work, or a dinner party. There can be no excess of access.

Bandwidth
Describes the dimensions that are necessary for messages, signals and communications to get through. The greater the bandwidth of a system, the higher the number of messages, and higher the quantum of information that it can accommodate at any given time. It follows from this that access is a function of bandwidth. More people can make themselves heard when there is room for them to speak and be spoken to. Bandwidth translates into content-rich information, streams of video, audio, and text flowing into each other. It also translates at the moment into cash. The hard cash and control that comes from selling pictures and sounds and numbers to more and more people.

Code
That which carries embedded within it a sign. A code is always a way of saying something to mean something other than that which is merely said. A code can be 'opened', in the sense that it can be accessed and entered, as opposed to 'broken'. An open-access culture of communication 'reveals the source' of its codes. A closed culture of communication blocks access to its codes. "Free code" is code which welcomes entry, and is open to change. "Free Code" needs to be shared for it to grow. Code connotes community, a community of "encoders, decoders and code sharers". Like eggs, code is sometimes best had scrambled.

Data
Information. Can mean anything from numbers to images, from white noise to noise to sound. A weather report, a portrait, a shadow in surveillance footage, a salary statement, birth and death statistics, a headcount in a gathering of friends, private e-mail, ultra high frequency signals, sale and purchase transactions and the patterns made by pedestrians as they walk in a city - all of this can be and is data. Data, like coal, uranium and other minerals vital to the running of the world economy is mined, processed, refined and sold at a high price. Battlefields, early twenty first century inter-personal relationships and stock exchanges have been known to be hypersensitive to data traffic. Data mining is a major emerging industry in Delhi. The miners lead very quiet days, and spend long nights coding in low temperature zones called "Data Outsourcing Centres".

Contrarily, the word 'Data' (d„t„) in Hindi/Sanskrit is taken to mean "giver", which suggests that one must always be generous with information, and make gifts of our code, images and ideas. To be stingy with data is to violate an instance of the secret and sacred compacts of homophonic words from different cultural/spatial orbits ('d„t„' in Hindi and 'data' in English) as they meet in the liminal zone between languages, in the thicket of the sound of quotidian slips of the tongue. Errors in transmission and understanding too carry gifts and data.

Ensemble
The conceit or delight in togetherness in an increasingly anomic, fragmented world. Playing or working together to create finished or unfinished works. Chamber musicians, criminals, code-hackers and documentarists form ensembles. Artists try to. Effective ensembles are high bandwidth assemblies that build into their own architecture portals for random access into themselves. They are, when they are at their best, open systems that place a premium on shared information within them. They can at times maintain high levels of secrecy while seemingly appearing to be transparent. Here, confidentiality is an index of practices in gestation. Mined data is, sometimes, restored to natural states of information entropy in data dissembling ensembles, which have been found to work best at night in media labs. The Raqs Media Collective is an ensemble and everything it

does is an ensemble of existing or anticipated practices.

Fractal

The self-organising design of repeating, replicating structures, often found in snowflakes, tree branch growth patterns, molecular structures and free code. Every part of a fractal pattern carries within it the signature or the emboss of the whole. A single fractal iteration carries within it the kernels of all others of its kind. Every fractal is a rescension of every other fractal that has grown from within it. In the same way a fragment of free code, or free cultural code, carries within it a myriad possibilities of its own reproduction and dispersal within a shared symbolic or information space. Fractals best describe the geometry of the matrices that are formed when data is shared instead of being just mined and shipped by a community of coders. Fractals are the fruit trees of the unconscious designing mind.

Gift

Something freely given, and taken, as in free code. Gift givers and gift takers are bound in networks of random or pre-meditated acts of symbolic exchange. The code begets the gift as the form of its own survival over time. In this way a gift is a quiet meme. Reciprocity begets reciprocity. The principle of the gift demands that the things being given be priceless, in other words so valuable as to be impossible to quantify in terms of the possibilities of abstract generalised exchange. The gift must at the same time, be easy to bear and keep, easy to use and there must be no guilt involved in its destruction or dispersal when its use value either changes or demands re-distribution in order to be effective. Gifts open doors to our own possibilities of generosity. In this way they facilitate access to the things we did not even know we had. And, there is such a thing as a free lunch, although it requires the pursuit of a special recipe.

Heterogeneous

That which begins in many places, like the story of a person's life. Diverse, dispersed, distributed, as in the authorship of culture, and in the trajectories of people who come to a site. Interpretations and ideas embrace greater freedom only when they encompass heterogeneity. In this, they are like most intimacies and some kinds of fruitcake. The richer they are, the more layers they have.

Iteration

An articulation, when seen as an event, is an iteration. Utterances, whispers, manifestoes, graffiti, stories, rumours and fragments of poetry found in the streets - each of these are iterations. The organised rendition of a stretch of code is also an iteration. Iteration implies a willingness to say something, and access to the means of saying it, and a time in which it can be said. Every iteration resonates through orbiting memes that are set off on their vectors by the fact of an utterance. An iteration is the kernel of a rescenscion. It needs to be said, and then said again.

Journal
A record of the everyday. Annals of matters varied and quotidian. Data from day to day to day. On reams or scraps of any material that can carry the emboss of time. The material may vary from newsprint to video to sound to binary code, or a combination of the same, and the journal may transmogrify from being a witness, to a participant in that which is being recorded. The extent and scale of 'participation' depends on the frequency of entries into the journal, and the number of correspondents it can muster. The higher the frequency of entries or number of correspondents, the greater is the intensity of the inscription of a time on a journal. A densely, thickly inscribed journal is one that is usually open access in terms of writing, reading and publishing. Why else would strangers want to write in? An open journal expects to be published anywhere at all. An open journal actively practices xenophilly. When a journal becomes more than a gazetteer of a moment it turns into a history. It then begins to make sense of itself as much as it does about a time that it spans. Conversely, every history begins life as a journal.

Kernel
The core of a work or an idea. The central rescension, of a narrative, a code, a set of signs or any other structure that invites modification, extrapolation and interpretation, by its very presence. Here, the term core must not be confused with 'origin' or with any other attributions of originality, which mean little within an open access system. It is almost impossible to determine the origins of a code, because the deeper we go into the constitutive elements of a code, the more it branches out to a series of nodes within and outside a given system of signs. It is more meaningful to talk of the 'custody', rather than the 'origin' of any system of signs. A kernel is often the custodian of a line of ideas that represents within itself a momentarily unique configuration. Kernels embody materials in states of intense concentration. This is because they have to encapsulate a lot of information, or nourishment, or structure building materials, within very limited dimensions. The density of information within a kernel is a key to its own extensibility. The more the thread that is rolled into a tight ball, the more it can be unwound. Kernels, by their limitedness and compactness, are portable, not cumbersome. As in the kernels of certain fruits, they may be hard to crack, but once they have been opened, they yield delicious and nourishing stuff. Kernels lend themselves to easy reproduction, but are fragile and often in need of protection. This protection may also come in the form of an outer layer of interpretation, which states the purposes and nature of the kernel, so that it is not prised open to answer every basic query about itself.

Liminal
Interstitial, vestibular and peripheral. Far from the centre, close to the border. A zone both between and without larger structures. Liminal spaces and moments are those into which large stable structures leak animated data about themselves and the world. Things happen in liminal zones. A city

carries within it the contradiction of liminal zones located in its centre, because inner cities are the city's farthest borderlands. Liminal fringes are often the most conducive environments for the culture of memes. This is because exiled images, ideas and meanings from several stable structures mingle in the corridors between them. Here, bereft of identities and other certainties, they are free to be promiscuous and reproduce. They infect each other with recombinant strands of thought and image. At the same time, the perspective of liminality brings intimacy to bear on an exclusion. Being liminal is to be close to, and yet stand outside the site of the border of any stable system of signs, where meaning is frayed from being nibbled at on the edges. Nothing can know the centre better than the sideways glance of peripheral vision. Liminality may be acquired from prolonged exposure to the still air of airport departure lounges, thick and over-boiled tea at the Inter State Bus Terminus on the ring road in Delhi, or the sub-liminal flicker of a cursor in an e-mail message.

Meme
The life form of ideas. A bad idea is a dead meme. The transience as well as the spread of ideas can be attributed to the fact that they replicate, reproduce and proliferate at high speed. Ideas, in their infectious state, are memes. Memes may be likened to those images, thoughts and ways of doing or understanding things that attach themselves, like viruses, to events, memories and experiences, often without their host or vehicle being fully aware of the fact that they are providing a location and transport to a meme. The ideas that can survive and be fertile on the harshest terrain tend to do so, because they are ready to allow for replicas of themselves, or permit frequent and far-reaching borrowals of their elements in combination with material taken from other memes. If sufficient new memes enter a system of signs, they can radically alter what is being signified. Cities are both breeding grounds and terminal wards for memes. To be a meme is a condition that every work with images and sounds could aspire towards, if it wanted to be infectious, and travel. Dispersal and infection are the key to the survival of any idea. A work with images, sounds and texts, needs to be portable and vulnerable, not static and immune, in order to be alive. It must be easy to take apart and assemble, it must be easy to translate, but difficult to paraphrase, and easy to gift. A dead meme is a bad idea.

Nodes
Any structure that is composed of concentrated masses of materials which act as junction points for the branching out of extensible parts of the overall system may be described as nodal. The concentrations or junctions being the nodes. A nodal structure is a rhizomic structure, it sets down roots (that branch out laterally) as it travels. Here, nodes may also be likened to the intersection points of fractal systems, the precise locations where new fractal iterations arises out of an existing pattern. A work that is internally composed of memes is inherently nodal. Each meme is

a junction point or a node for the lateral branching out of the vector of an idea. In a work that is made up of interconnected nodes, the final structure that emerges is that of a web, in which every vector eventually passes through each node, at least once on its orbit through the structure of the work. In such a structure it becomes impossible to suppress or kill an idea, once it is set in motion, because its vectors will make it travel quickly through the nodes to other locations within the system, setting off chains of echoes and resonances at each node that trace a path back to the kernel of the idea.

These echoes and resonances are rescensions, and each node is ultimately a direct rescension of at least one other node in the system and an indirect rescension of each junction within a whole cluster of other nodes. Nodes, when written, perhaps erroneously, as 'no-des' gives rise to an intriguing hybrid English/Eastern-Hindi neologism, a companion to the old words - 'des', and 'par-des'. 'Des' (in some eastern dialects of Hindi, spoken by many migrants to Delhi) is simply homeland or native place; 'par-des' suggests exile, and an alien land. 'No-des' is that site or way of being, in 'des' or in 'par-des', where territory and anxieties about belonging, don't go hand in hand. Nodes in a digital domain are No-des.

Orbit
A path that describes the continuous movement of anything within a structure. Because the movement within it is continuous, it (an Orbit) is also impossible to define in terms of origin or destination. What is possible to determine at any given moment is the vector of an orbit. A meme, when orbiting within a structure of signs, is neither travelling away from its origin, nor is it travelling towards a destination. This is why, in an open access system, which is composed of memes, it is meaningless to talk in terms of authors and audiences, rather one can only speak of the node where one got on to an idea, and the junction where one got off, perhaps to enter the vector of another orbiting meme. Sometimes a work of interpretation, like certain comets and other stellar objects, can have an eccentric orbit. This means that there is always a likelihood of a cluster of signs and images from afar, brushing past objects on its path, entering the orbits of other constellations, when it is least expected to. The sky of meaning is full of shooting stars.

Portability
The feature of a system or work that best describes its ability to move quickly through different spaces and mediums. A sign or a meme that can travel well between image, sound and text media is portable. A work, which while it speaks of one site, is understood in another location, is portable. A work that describes many locations in the course of its interpretative orbit is also portable. A portable work is rich in memes, which act as engines for its movements, and is endowed with compact kernels that can travel well without danger of being cracked open. Briefcases, languages, post cards, Swiss knives, computers, jests, stories and shoes

are portable. Gifts, because they change hands, must always be portable. Monuments can never be. The life histories of some (itinerant) individuals and (nomadic) communities make them approximate the condition of portability.

Quotidian
Common but not commonplace. The memorable nature of the everyday. Memory walking down a street and turning a corner. Memory buzzing in a hard disk. Ubiquitous, the dirt in a site, the fog in a liminal zone, that which is thickened through repetition.

Milk, computers, onions, computers, pyjamas, computers, carpal tunnel syndrome, computers, accidents, computers, sex, computers, bread, computers, night, computers, class, computers, skin, computers, love, computers, money, computers, headaches, computers, police, computers, buses, computers, bicycle, computers, radio, computers, horoscopes, computers, matrimonials, computers, funerals, computers, biscuits, computers, conversations, computers, silences, computers.

The quotidian is that which makes a journal turn, over time, into a history, because it induces the search for patterns and meanings in an otherwise tangled mass of time, in memes iterated beyond reasonable limits. Routine, yet random, the quotidian nature of anything demands fleeting moments of lucid engagement with the real world, which now includes within it the world that is forged every time any fingers do a qwerty dance on a keyboard. The quotidian is a measure of all things, rare and commonplace.

Rescension
A re-telling, a word taken to signify the simultaneous existence of different versions of a narrative within oral, and from now onwards, digital cultures. Thus one can speak of a 'southern' or a 'northern' rescension of a myth, or of a 'female' or 'male' rescension of a story, or the possibility (to begin with) of Delhi/Berlin/Tehran 'rescensions' of a digital work. The concept of rescension is contraindicative of the notion of hierarchy. A rescension cannot be an improvement, nor can it connote a diminishing of value. A rescension is that version which does not act as a replacement for any other configuration of its constitutive materials. The existence of multiple rescensions is a guarantor of an idea or a work's ubiquity. This ensures that the constellation of narrative, signs and images that a work embodies is present, and waiting for iteration at more than one site at any given time. Rescensions are portable and are carried within orbiting kernels within a space. Rescensions, taken together constitute ensembles that may form an interconnected web of ideas, images and signs.

Site
Location, both as in the fact of being somewhere, and also, as in the

answer to the question of "where", that "somewhere" is. Hence, situation. In a system of signs, site - understood in the sense of the kernel of a situation - is not necessarily a place, although a place is always a site. A site can be a situation between and through places. A website is an address on the Internet that always implies a relation of desire between hosts and visitors. In other words, it doesn't really mean anything for a place to exist (virtually) if it is left un-visited. In this way, a site can be both located as well as liminal. Real as well as potential. A system of signs (a work) that carries the markings of a location on a map may be situated in the relation that a map has to the world. It may be situated between the map and the world. This situation may be a special characteristic of the work's portability, in that, although mobile the work always refers to the relation between sites that fall on its orbit. In this way, marking a site as an address calls for the drawing up of relations between a location and the world.

A site is a place where the address is. A site is a place where the work belongs. A situation between these two locations (where the work is and where it belongs) is a site where the work orbits. A site is also a place where people need to wear hard hats to protect them from random falling bodies, travelling in eccentric orbits.

Tools
Things that help make things. Ideas, instruments, concepts, ways of doing things, and ways of being or acting together that are conducive to creative work. In the context of an online environment, a community or an ensemble of people is as much an instrument as a software application. Conversely, a tool emerges when a group of people discover a method that helps them act together to create something. Again, a work that acts as a navigation aid, a browser or interface in a web of memes, is also a tool with which to open and search for other tools.

Ubiquity
Everywhere-ness. The capacity to be in more than one site. The simple fact of heterogeneous situation, a feature of the way in which clusters of memes, packets of data, orbit and remain extant in several nodal points within a system. The propensity of a meme towards ubiquity increases with every iteration, for once spoken, it always already exists again and elsewhere. It begins to exist and be active (even if dormantly) in the person spoken to as well as in the speaker. Stories, and the kernels of ideas travel in this way. A rescension, when in orbit, crosses the paths of its variants. The zone where two orbits intersect is usually the site of an active transaction and transfer of meanings. Each rescension, carries into its own trajectory memes from its companion. In this way, through the encounters between rescensions, ideas spread, travel and tend towards ubiquity. That which is everywhere is difficult to censor, that which is everywhere has no lack of allies. To be ubiquitous is to be present and dispersed in 'no-des'. Sometimes, ubiquity is the only effective answer to

censorship and isolation.

The Network Society of Control

Vector
The direction in which an object moves, factored by the velocity of its movement. An idea spins and speeds at the same time. The intensity of its movement is an attribute of the propensity it has to connect and touch other ideas. This gives rise to its vector functions. The vector of a meme is always towards other memes, in other words, the tendency of vectors of data is to be as ubiquitous as possible. This means that an image, code or an idea must attract others to enter into relationships that ensure its portability and rapid transfer through different sites and zones. The vectors of different memes, when taken together, form a spinning web of code.

Web
An open fabric woven of strands and knotted at usually regular, but equally possibly irregular, intervals. Intricately structured, accessible and yet endowed with complex networks of coded messages. The world wide web is a zone in which a digital constellation of memes can find an orbit. A web of code is used to harvest meanings, just as a web of threads is used to harvest fish.

Xenophilly
Friendliness and hospitality towards others, a human quality that best describes the moral economy of an ideal digital domain. The search for connectedness, and the desire to travel along the vectors from elsewhere. The meaning of the hyphen that transforms 'no-des' into a positive value.

Yarn
Fabrics, and stories, are made from yarn. A yarn is a snatch of reality that travels by word of mouth. Or it is shipped along with lots of html cargo. It is said that each fragment of code contains rumours and gossip, or yarns about the makers of the code. Yarns collect in basement cyber cafès, in stairwells of cinemas, in call centres and behind the opaque surface of the walls of an apartment whose address is Error 404, which can be anywhere and everywhere at once. In these places, yarn collectors stitch different stretches of codeñfabric to make long bolts of data, which are then taken apart by hackers, and distributed into many orbits. Yarns can adjust the amount of information they bear in relation to the width of bandwidth. That is why yarns are good kernels.

Zone
A site, within a location, or a work, that demands an attenuated awareness because of the porosity of the lines that demarcate its existence. A zone is differentiated from a grid that frames a site because its borders are fluid and accessible, or because they witness a lot of traffic. It is difficult to distinguish the centre from the liminal periphery of a zone. Alertness about where one stands is a prerequisite for entering any zone. A zone may also be described as the overlap between orbits in a work, where memes transfer material from one orbit to another, where logic likes to

fuzz. The zone of a work extends to the outer circumference of the orbit of its ideas.

Zones are places where serendipity might be commonplace, and the commonplace serendipitous. They are best entered and exited at twilight on shunting cars along abandoned railroads that connect different data stations. The timing of twilight may vary, depending on oneís longitude, but twilight lingers longer in the zone of the web.

Source:
[Reader-list] A Concise Lexicon of/ for the Digital Commons

Open Source Intelligence
by Felix Stalder and Jesse Hirsh

Abstract
The Open Source movement has established over the last decade a new collaborative approach, uniquely adapted to the Internet, to developing high-quality informational products. Initially, its exclusive application was the development of software (GNU/Linux and Apache are among the most prominent projects), but increasingly we can observe this collaborative approach being applied to areas beyond the coding of software. One such area is the collaborative gathering and analysis of information, a practice we term "Open Source Intelligence". In this article, we use three case studies - the nettime mailing list, the Wikipedia project and the NoLogo Web site - to show some the breadth of contexts and analyze the variety of socio-technical approaches that make up this emerging phenomenon.

Contents
In the world of secret services, Open Source Intelligence (OS-INT) means useful information gleaned from public sources, such as scientific articles, newspapers, phone books and price lists. We use the term differently. In the followings OS-INT means the application of collaborative principles developed by the Open Source Software movement [1] to the gathering and analysis of information. These principles include: peer review, reputation- rather than sanctions-based authority, the free sharing of products, and flexible levels of involvement and responsibility.

Like much on the Internet in general, including the Open Source Software movement, practice preceded theory also in the case of OS-INT.

Many of the Internet's core technologies were created to facilitate free

and easy information sharing among peers. This always included two-way and multicast communication so that information could not only be distributed efficiently, but also evaluated collaboratively.

E-mail lists - the most simple of all OS-INT platforms - have been around since the mid 1970s [2]. In the 1980s, bulletin boards, FidoNet and Usenet provided user-driven OS-INT platforms with more sophisticated and specialized functionality.

In the 1990s, many of these platforms were overshadowed by the emergence of the Word Wide Web. Tim Berners-Lee's foundational work on Web standards was guided by a vision of peer collaboration among scientists distributed across the globe [3].

While OS-INT's precedents reach back through the history of the Internet - and if one were to include peer-reviewed academic publishing, much beyond that - a series of recent events warrant that it be considered a distinct phenomenon that is slowly finding its own identity, maturing from a practice "in itself" to one "for itself."

The culture of the Internet as a whole has been changing. The spirit of free sharing that characterized the early days is increasingly being challenged by commodity-oriented control structures which have traditionally dominated the content industries.

At this point, instead of being the norm, free sharing of information is becoming the exception, in part because the regulatory landscape is changing. The extension of copyrights and increasingly harsh prosecution of violations are attempts to criminalize early Net culture in order to shore up the commodity model, which is encountering serious difficulties in the digital environment [4].

In other areas, years of experience with the rise and fall of "proto-OS-INT" forums has accumulated to become a kind of connective social-learning process. Uncounted e-mail lists went through boom and bust cycles, large numbers of newsgroups flourished and then fell apart due to pressures from anti-social behavior. Spam became a problem. Endless discussions raged about censorship imposed by forum moderators, controversial debates erupted about ownership of forums (is it the users or the providers?), difficulties were encountered when attempting to reach any binding consensus in fluctuating, loosely integrated groups.

The condensed outcome of these experiences is a realization that a sustainable, open and collaborative practice is difficult to achieve and that new specialized approaches must be developed in order to sustain the fine balance between openness and a healthy signal/noise ratio.

In other words, self-organization needs some help.

The emerging field of OSI-INT is made up of numerous, independent projects. Each of them, such as the Nettime e-mail list, Wikipedia and the NoLogo.org Web site which will be discussed in the following, has a distinct history that led them to develop different technical and social strategies, in order to realize some or all of the open source collaborative principles.

Open Source Collaborative Principles

One of the early precedents of open source intelligence is the process of academic peer review. As academia established a long time ago, in the absence of fixed and absolute authorities, knowledge has to be established through the tentative process of consensus building. At the core of this process is peer review, the practice of peers evaluating each other's work, rather than relying on external judges.

The specifics of the reviewing process are variable, depending on the discipline, but the basic principle is universal. Consensus cannot be imposed, it has to be reached. Dissenting voices cannot be silenced, except through the arduous process of social stigmatization.

Of course, not all peers are really equal, not all voices carry the same weight. The opinions of those people to whom high reputation has been assigned by their peers carry more weight. Since reputation must be accumulated over time, these authoritative voices tend to come from established members of the group. This gives the practice of peer review an inherently conservative tendency, particularly when access to the peer group is strictly policed, as it is in academia, where diplomas and appointments are necessary to enter the elite circle.

The point is that the authority held by some members of the group - which can, at times, distort the consensus-building process - is attributed to them by the group, therefore it cannot be maintained (easily) against the will of the other group members.

If we follow Max Weber's definition that power is the ability to "impose one's will upon the behavior of other persons," [5] this significantly limits the degree to which established members can yield power. Eric Raymond had the same limitations in mind when he noted that open source projects are often run by "benevolent dictators" [6]. They are not benevolent because the people are somehow better, but because their leadership is based almost exclusively on their ability to convince others to follow. Thus the means of coercion are very limited. Hence, a dictator who is no longer benevolent, i.e. who alienates his or her followers, loses the ability to dictate.

The ability to coerce is limited, not only because authority is reputation-

based, but also because the products that are built through a collaborative process are available to all members of the group. Resources do not accumulate with the elite. Therefore, abandoning the leader and developing the project in a different direction - known as "forking" in the Open Source Software movement - is relatively easy and always a threat to the established players. The free sharing of the products produced by the collaboration among all collaborators - both in their intermediary and final forms - ensures that that there are no "monopolies of knowledge" that would increase the possibility of coercion.

The free sharing of information has nothing to do with altruism or a specific anti-authoritarian social vision. It is motivated by the fact that in a complex collaborative process, it is effectively impossible to differentiate between the "raw material" that goes into a creative process and the "product" that comes out.

Even the greatest innovators stand on the shoulders of giants. All new creations are built on previous creations and provide inspiration for future ones. The ability to freely use and refine those previous creations increases the possibilities for future creativity. Lawrence Lessig calls this an "innovation commons," and cites its existence as one of the major reasons why the Internet as a whole developed so rapidly and innovatively [7].

It is also important to note that an often overlooked characteristic of open source collaboration is the flexible degree of involvement in and responsibility for the process that can be accommodated. The hurdle to participating in a project is extremely low. Valuable contributions can be as small as a single, one-time effort - a bug report, a penetrating comment in a discussion.

Equally important, though, is the fact that contributions are not limited to just that. Many projects also have dedicated, full-time, often paid contributors who maintain core aspects of the system - such as maintainers of the kernel, or editors of a slash site.

Between these two extremes - one-time contribution and full-time dedication - all degrees of involvement are possible and useful. It is also easy to slide up or down the scale of commitment. Consequently, dedicated people assume responsibility when they invest time in the project, and lose it when they cease to be fully immersed.

Hierarchies are fluid and merit-based, however and whatever merit means to the peers. This also makes it difficult for established members to continue to hold onto their positions when they stop making valuable contributions. In volunteer organizations, this is often a major problem, as early contributors sometimes try to base their influence on old contributions, rather than letting the organizations change and develop.

None of these principles were "invented" by the Open Source Software movement. However, they were updated to work on the Internet and fused into a coherent whole in which each principle reinforces the other in a positive manner. The conservative tendencies of peer review are counter-balanced with relatively open access to the peer group: a major difference from academia, for instance.

Most importantly, the practice of Open Source has proved that these principles are a sound basis for the development of high-end content that can compete with the products produced by commodity-oriented control structures [8].

A Few Examples of Open Source Intelligence

< nettime >
Nettime is an e-mail list founded in the summer of 1995 by a group of cultural producers and media activists during a meeting at the Venice Biennale. As its homepage states, the list focuses on "networked cultures, politics, and tactics" [9]. Its actual content is almost entirely driven by members' submissions. It is a good example of true many-to-many communication.

Nettime calls its own practice "collaborative text filtering." The filter is the list itself - or to be more precise, the cognitive capacities of the people on the list. The list consists of peers with equal ability - though not necessarily interest - to read and write. The practice of peer review takes place on the list and in real time.

The list serves as an early warning system for the community, a discussion board for forwarded texts as well as a sizeable amount of original writing, and, equally importantly, an alternative media channel. This last function became most prominent during the war against Yugoslavia, when many of members living in the region published their experiences of being on the receiving end of not-so-smart, not-so-precise bombs.

By March 2002, the number of subscribers had grown to 2,500. The number of people who read nettime posts, however, is higher than the number of subscribers to the list. Nettime maintains a public Web-based archive that is viewed extensively, and some of the subscriber addresses are lists themselves. Also, as a high-reputation list, many of the posts get forwarded by individual subscribers to more specialized lists (another kind of collaborative text filtering), in addition to being published in print and other electronic media.

The majority of subscribers come from Western Europe and North America, but

the number of members from other regions is quite sizeable [10]. Over the years, autonomous lists have been spun off in other languages: Dutch, Romanian, Spanish/Portuguese, French and Mandarin. A Japanese list is currently in preparation. Despite its growth and diversity, nettime has retained a high degree of coherent culture and developed an original of technology-savvy, leftist media critique, stressing the importance of culture and social aspects of technology, as well as the importance of art, experimentation and hands-on involvement. This flexible coherence has been strengthened through a series of real-life projects, such as paper publications including a full-scale anthology [11], and a string of conferences and "nettime-meetings" in Europe during the 1990s.

Since its inception, the list has been running on majordomo, a then popular open source e-mail list package, and assorted hypermail and mhonarc based Web archives. Technically, the list has undergone little development. Initially, for almost three years, the list was open and unmoderated, reflecting the close-knit relationships of its small circle of subscribers and the still "clubby" atmosphere of netculture.

However, after spam and flame wars became rampant, and the deteriorating signal/noise ratio began to threaten the list's viability, moderation was introduced. In majordomo, moderation means that all posts go into a queue and the moderators - called "list-owners," an unfortunate terminology - decide which posts get put though to the list, and which are deleted.

This technological set-up makes the moderation process opaque and centralized. The many list members cannot see which posts have not been approved by the few moderators. Understandably, in the case of nettime, this has led to a great deal of discussion about censorship and "power grabbing" moderators. The discussion was particularly acrimonious in the case of traffic-heavy ASCII-art and spam-art that can either be seen as creative experimentation with the medium, or as destructive flooding of a discursive space. Deleting commercial spam, however, was universally favored.

In order to make the process of moderation more transparent, an additional list was introduced in February 2000, nettime-bold. This channel has been carrying all posts that go into the queue prior to moderators' evaluation. Because this list is also archived on the Web, members can view for themselves the difference between what was sent to the list and what was approved by the moderators.

In addition to increasing the list's transparency, having access to the entire feed of posts created the option for members to implement parallel but alternative moderation criteria. In practice, however, this has not yet occurred. Nevertheless, giving members this option has transformed the status of the moderators from being the exclusive decision makers to "trusted filters." It has also provided the possibility for forking (i.e.

the list splitting into two differently moderated forums).

Nettime is entirely run by volunteers. Time and resources are donated. The products of nettime are freely available to members and non-members alike. Even the paper publications are available in their entirety in the nettime archives [12]. Reflecting its history and also the diversity of its contributors and submissions, nettime has maintained the rule that "you own your own words." Authors decide how to handle redistribution of their own texts, though to be frank, it is hard to have control over a text's after-life once it has been distributed to 2,500 addresses and archived on the Web.

Despite its many advantages - ease of use, low technical requirements for participating, direct delivery of the messages into members' inboxes - the format of the e-mail list is clearly limited when it comes to collaborative knowledge creation.

Moderation is essential once a list reaches a certain diversity and recognition, but the options for how to effect this moderation are highly constrained. Nettime's solution - establishing an additional unmoderated channel - has not essentially changed the fact that there is a very strict hierarchy between moderators and subscribers. While involvement is flexible (ranging from lurkers to frequent contributors) the responsibility is inflexibly restricted to the two fixed social roles enabled by the software (subscriber and moderator). The additional channel has also not changed the binary moderation options: approval or deletion. The social capacities built into the e-mail list software remain relatively primitive, and so are the options for OS-INT projects using this platform.

< wikipedia.com >
Wikipedia is a spin-off of Nupedia. Nupedia - the name is a combination of GNU and encyclopedia - is a project to create an authoritative encyclopedia inspired, and morally supported, by Richard Stallman's GNU project [13]. However, apart from being published under an open license, Nupedia's structure is similar to the traditional editorial process. Experts write articles that are reviewed by a board of expert editors (with some public input via the "article in progress" section) before being finalized, approved, and published. Once published, the articles are finished. Given the extensive process, it's not surprising that the project has been developing at a glacial pace.

Wikipedia was started in early 2001 as an attempt to create something similar - a free encyclopedia that would ultimately be able to compete with the Encyclopaedia Britannica - but it was developed via a very different, much more open process. The two projects are related but independent - Nupedia links to articles on Wikipedia if it has no entries for a keyword, and some people contribute to both projects, but most don't.

The project's technological platform is called Wikiweb, named after the Hawaiian word wikiwiki, which means fast [14]. The original software was written in 1994 but recently rewritten to better handle the rapidly growing size and volume of Wikipedia.

The Wiki platform incorporates one of Berners-Lee's original concepts for the Web: to let people not only see the source code, but also freely edit the content of pages they view. In the footer of most Wikipages is the option to "Edit this page," which gives the user access to a simple form that allows them to change the displayed page's content. The changes become effective immediately, without being reviewed by a board or even the original author. Each page also has a "history" function that allows users to review the changes and, if necessary, revert to an older version of the page.

In this system, writing and editing are collective and cumulative. A reader who sees a mistake or omission in an article can immediately correct it or add the missing information. Following the open source peer-review maxim, formulated by Eric Raymond as "given enough eyeballs, all bugs are shallow," this allows the project to grow not only in number of articles, but also in terms of the articles' depth, which should improve over time through the collective input of knowledgeable readers.

Since the review and improvement process is public and ongoing, there is no difference between beta and release versions of the information (as there is in Nupedia). Texts continuously change. Peer-review becomes peer-editing, resulting in what Larry Sanger, one of the original project leaders, hailed as the "most promiscuous form of publishing."

At least as far as its growth is concerned, the project has been very successful. It passed 1,000 pages around February 12, 2001, and 10,000 articles around September 7, 2001. In its first year of existence, over 20,000 encyclopedia entries were created - that's a rate of over 1,500 articles per month. By the end of March 2002, the number of articles had grown to over 27,000.

The quality of the articles is a different matter and difficult to judge in a general manner. Casual searching brings up some articles that are in very good shape and many that aren't. Of course, this is not surprising given the given the fact that the project is still very young. Many of the articles function more as invitations for input than as useful reference sources. For the moment, many texts have an "undergraduate" feel to them, which may be appropriate, since the project just finished its "first year." However, it remains to be seen if the project will ever graduate.

Both Nupedia and Wikipedia have been supported by Jimbo Wales, CEO of the San Diego-based search engine company Bomis, who has donated server space

and bandwidth to the project. The code-base was rewritten by a student at the University of Cologne, Germany, and for a bit more than one year, Larry Sanger held a full-time position (via Bomis) as editor-in-chief of Nupedia and chief organizer at Wikipedia. In January 2002, funding ran out and Larry resigned. He now contributes as a volunteer. There are currently close to 1,200 registered users, but since it's possible to contribute anonymously, and quite a few people do, the actual number of contributors is most likely higher.

Wikipedia has not suffered from the resignation of its only paid contributor. It seems that it has reached, at least for the moment, the critical mass necessary to remain vibrant. Since anyone can read and write, the paid editor did not have any special status. His contributions were primarily cognitive, because he had more time than anyone else did to edit articles and write initial editing rules and FAQ files. His influence was entirely reputation-based. He could, and did, motivate people, but he could not force anyone to do anything against their will.

The products of this encyclopedia are freely available to anyone. The texts are published under the GNU Free Document license [15]. This states that the texts can be copied and modified for any purpose, as long as the original source is credited and the resulting text is published under the same license. Not only the individual texts are available, the entire project - including its platform - can be downloaded as a single file for mirroring, viewing offline, or any other use. Effectively, not even the system administrator can control the project.

The scale of people's involvement in the project is highly flexible, ranging from the simple reader who corrects a minor mistake, to the author who maintains a lengthy entry, to the editor who continuously improves other people's entries. These roles depend entirely on each contributor's commitment, and are not pre-configured in the software. Everyone has the same editing capabilities.

So far, the project has suffered little from the kind of vandalism that one might expect to occur given its open editing capabilities. There are several reasons for this. On the one hand, authors and contributors who have put effort into creating an entry have a vested interest in maintaining and improving the resource, and due to the "change history" function, individual pages can be restored relatively easily. The latest version of the platform has an added feature that can send out alerts to people who request them whenever a specific page has been changed.

The other reason is that the project still has a "community" character to it, so there seems to be a certain shared feeling that it is a valuable resource and needs to be maintained properly. Finally, in case of read differences over content, it's often easier to create a new entry rather

than to fight over an existing one. This is one of the great advantages of having infinite space.

So far, self-regulation works quite well. It remains to be seen how long the current rate of growth can be sustained, and if it really translates into an improvement over the quality of the individual encyclopedia entries. So far, the prospects look good, but there are very few examples of the long-term dynamics of such open projects. Given the fact that its stated competitor, the Encyclopaedia Britannica, has been publishing since 1768, long term development is clearly essential to such a project.

< NoLogo.org >

NoLogo.org is perhaps the most prominent second-generation slash site. This makes it a good example of how the OS-INT experience, embodied by a specific code, is now at a stage where it can be replicated across different contexts with relative ease. NoLogo.org is based on the current, stable release of Slashcode, an open source software platform released under the GPL, and developed for and by the Slashdot community. Slashdot is the most well-known and obvious example of OS-INT, since it is one of the main news and discussion sites for the open source movement.

Of particular importance for OS-INT is the collaborative moderation process supported by the code. Users who contribute good stories or comments on stories are rewarded with "karma," which is essentially a point system that enables people to build up their reputation. Once a user has accumulated a certain number of points, she can assume more responsibilities, and is even trusted to moderate other people's comments.

Points do have a half-life however. If a user stops contributing, their privileges expire. Each comment can be assigned points by several different moderators, and the final grade (from -1 to +5) is an average of all the moderators' judgments. A good contribution is one that receives high grades from multiple moderators. This creates a kind of double peer-review process. The first is the content of the discussion itself where people respond to one another, and the second is the unique ranking of each contribution.

This approach to moderation addresses very elegantly several problems that bedevil e-mail lists. First, the moderation process is collaborative. No individual moderator can impose his or her preferences. Second, moderation means ranking, rather than deleting. Even comments ranked -1 can still be read. Third, users set their preferences individually, rather than allowing a moderator to set them for everyone. Some might enjoy the strange worlds of -1 comments, whereas others might only want to read the select few that garnered +5 rankings. Finally, involvement is reputation- (i.e. karma-) based and flexible. Since moderation is collaborative, it's possible to give out moderation privileges automatically. Moderators have very limited control over the system. As an additional layer of feedback, moderators who

have accumulated even more points through consistently good work can "meta-moderate," or rank the other moderators.

The social potential embodied in Slashcode was available when Naomi Klein's January 2000 book No Logo: Taking Aim at the Brand Bullies became a sudden international best-seller. In the wake of the anti-globalization protests in Seattle in November 1999, and after, the book began to sell in the 10,000s and later 100,000s. She found herself caught in a clash of old and new media and facing a peculiar problem.

A book is a highly hierarchical and centralized form of communication - there is only one single author, and a very large number of readers. It is centralized because users form a relationship with the author, while typically remaining isolated from one another. This imbalance of the broadcast model is usually not a problem, since readers lack efficient feedback channels.

However, today many readers have e-mail and began to find Naomi's e-mail address on the Web. She started receiving e-mails en masse, asking for comments, advice, and information. There was no way she could take all these e-mails seriously and respond to them properly. The imbalance between the needs of the audience and the capacities of the author were just too great, particularly since Naomi had no interest in styling herself as the leader or guru of the anti-globalization movement. (Of course that didn't stop the mass media from doing so without her consent.) As she explains the idea behind the Nologo.org:

"Mostly, we wanted a place where readers and researchers interested in these issues could talk directly to one another, rather than going through me. We also wanted to challenge the absurd media perception that I am "the voice of the movement," and instead provide a small glimpse of the range of campaigns, issues and organizations that make up this powerful activist network - powerful precisely because it insistently repels all attempts to force it into a traditional hierarchy" [16].

The book, which touched a nerve for many people, created a global, distributed y"communityy" of isolated readers. The book provided a focus, but nowhere to go except to the author. The Slashcode-based Web site provided a readily available platform for the readers to become visible to one another and break through the isolation created by the book.

The book and the OS-INT platform are complementary. The book is a momentary and personal solidification of a very fluid and heterogeneous movement. The coherent analysis that the traditional author can produce still has a lot of value. The OS-INT platform, on the other hand, is a reflection of the dynamic multiplicity of the movement, a way to give back something to the

readers (and others) and a connective learning process. More than the book, Nologo.org fuses action with reflection.

Of course, all the problems that are traditionally associated with public forums are still there, dissent - at times vitriolic and destructive - is voiced, but the moderating system allows members of the group to deal with differences in opinion in ways that do not impede the vitality of the forum. The learning process of Slashdot, in terms of to how to deal with these issues, benefited NoLogo significantly. Within the first year, 3,000 users registered on the site which serves requests of some 1,500 individual visitors per day.

The Future of OS-INT

As a distinct practice, Open Source Intelligence is still quite young and faces a few challenges.

First, there is the issue of scale. Compared to traditional broadcast media, OS-INT projects are still very small (with the exception of slashdot, which has about half a million registered users) [17]. Since scale and exposure significantly affect the social dynamics, growth might not come easily for many projects.

Second, there is an issue of economics. Most OSI-INT projects are pure volunteer projects. Resources are donated. Wikipedia, for example, depends on Bomis Inc. for hardware and bandwidth. NoLogo.org is financed through royalties from book sales. Most OS-INT project have not yet produced any revenue to cover some of the inevitable costs. So far, they have quite successfully relied on donations (from sympathetic individuals, corporations or foundations), but prolonged crisis of the Internet economy does not necessarily make it easier to raise funds, which becomes more important as the projects grow in size and the infrastructure/bandwidth needs increase.

Compared to traditional production and publishing models, OS-INT projects take part to a large degree outside the traditional monetary economy. Contributors, by and large, are not motivated by immediate financial gain. However, not all resources can be secured without money, so new and creative models of financing such projects need to be found.

Slashdot, for example, which could rely for a long time on advertisement as a main revenue source, recently had to increase the size of banners in order to keep up with costs. However, it gave users the possibility to access the site without advertisement - in exchange for a small subscription fee.

It is likely that OSI-INT projects, from an economic point of view, will develop into a hybrid involving direct revenues (e.g. subscription,

advertisement), goodwill donations and volunteer efforts. How these different elements will relate to one another will change from project to project. There is a lot of room - and need - for creative experiments.

Despite these challenges, there are good reasons to be optimistic about its future. First, the socio-technological learning process is deepening. The platforms and practices of OS-INT are becoming better understood, and consequently the hurdles for users as well as providers are getting lower.

On the users' side, the experience of learning how to deal with participatory, rather than broadcast media is growing. Their distinct character is being developed, mastered and appreciated.

For providers, the learning experience of OS-INT is embedded in sophisticated, freely available GPL software. The start-up costs for new projects are minimal, and possibilities for adapting the platform to the idiosyncratic needs of each project are maximized. The resulting diversity, in turn, enriches the connective learning process.

Second, as the mass media converges into an ever smaller number of (cross-industrial) conglomerates, which relentlessly promote and control their multitude of media products, the need for alternative information channels rises, at least among people who invest time and cognitive energy into being critically informed.

Given the economics of advertisement-driven mass media, it is clear that the possibilities of an "alternative newspaper" is rather limited. OS-INT platforms, by distributing labor throughout the community, offer the possibility of reaching a wider audience without being subject to the same economic pressures that broadcast and print media face to deliver those audiences to advertisers, particularly considering the fact that paid subscriptions allow access to advertisement-free content.

The more homogenous the mainstream media becomes, the more room opens up for alternatives. And if these alternatives are to be viable, then they must not be limited to alternative content, but must also explore the structure of their production. This is the promise and potential of OS-INT.

The range of technologies are as wide as the range of communities, and a close relationship exists between the two. Technologies open and close possibilities in the same sense that social communities do. As Lawrence Lessig pointed out, what code is to the online world, architecture is to the physical world [18]. The way we live and the structures in which we live are deeply related. The culture of technology increasingly becomes the culture of our society.

About the Authors

The authors are associated with some of the projects analyzed in this article. Felix Stalder is currently one of the moderators of the nettime mailing list (nettime-l). Jesse Hirsh is closely involved with Nologo.org.

Notes

1. We use the term Open Source for its deliberate openness. Contrary to the more narrow term Free Software, Open Source seems better suited to label a general collaborative approach not limited to code. We acknowledge the historical and ideological differences between the two concepts, but we believe that they are of limited relevance in the context of the present argument.
2. http://www.zakon.org/robert/internet/timeline/#1970s, accessed 25 March 2002.
3. Tim Berners-Lee with Mark Fischetti, 1999. Weaving the Web: The Original Design and the Ultimate Destiny of the World Wide Web by its Inventor. New York: HarperCollins
4. Lawrence Lessig, 2001. The Future of Ideas: The Fate of the Commons in a Connected World. New York: Random House.
5. Max Weber, 1954. Max Weber on Law in Economy and Society. Translated by Talcott Parsons. Cambridge, Mass.: Harvard University Press
6. Eric Raymond, 2000. "Homesteading the Noosphere," at http://www.tuxedo.org/~esr/writings/cathedral-bazaar/homesteading/x349.html.
7. Lawrence Lessig (2001).
8. Often, but not always, these principles are supported by licenses setting the legal parameters for what can, or cannot, be done with the informational products governed by them. For an overview of the different licenses, see the Open Source initiative's list of more than 30 "approved licenses" at http://www.opensource.org/licenses.
9. http://www.nettime.org.
10. http://amsterdam.nettime.org/Lists-Archives/nettime-l-0203/msg00080.html
11. J. Bosma, P. Van Mourik Broekman, T. Byfield, M. Fuller, G. Lovink, D. McCarty, P. Schultz, F. Stalder, M. Wark, and F. Wilding (editors), 1999. Readme! Ascii Culture and the Revenge of Knowledge. New York: Autonomedia.
12. http://www.nettime.org/pub.html.
13. http://www.gnu.org/encyclopedia/free-encyclopedia.html.
14. http://www.wiki.org.
15. http://www.wikipedia.com/wiki/GNU+Free+Documentation+License.
16. http://www.nologo.org/letter.shtml.
17. OS-INT projects take place on the Internet hence they still cannot have the broad reach of traditional broadcast media.
18. Lawrence Lessig, 1999. Code and Other Laws of Cyberspace. New York: Basic Books.

Source:

First Monday [http://www.firstmonday.dk/issues/issue7_6/stalder/]

A New Direction for Intellectual Property

By AMY HARMON

Perceiving an overly zealous culture of copyright protection, a group of law and technology scholars are setting up Creative Commons, a nonprofit company that will develop ways for artists, writers and others to easily designate their work as freely shareable.

Creative Commons, which is to be officially announced this week at a technology conference in Santa Clara, Calif., has nearly a million dollars in start-up money. The firm's founders argue that the expansion of legal protection for intellectual property, like a 1998 law extending the term of copyright by 20 years, could inhibit creativity and innovation. But the main focus of Creative Commons will be on clearly identifying the material that is meant to be shared. The idea is that making it easier to place material in the public domain will in itself encourage more people to do so.

The firm's first project is to design a set of licenses stating the terms under which a given work can be copied and used by others. Musicians who want to build an audience, for instance, might permit people to copy songs for noncommercial use. Graphic designers might allow unlimited copying of certain work as long as it is credited.

The goal is to make such licenses machine-readable, so that anyone could go to an Internet search engine and seek images or a genre of music, for example, that could be copied without legal entanglements.

"It's a way to mark the spaces people are allowed to walk on," said Lawrence Lessig, a leading intellectual property expert who will take a partial leave from Stanford Law School for the next three years to serve as the chairman of Creative Commons.

Inspired in part by the free-software movement, which has attracted thousands of computer programmers to contribute their work to the public domain, Creative Commons ultimately plans to create a "conservancy" for donations of valuable intellectual property whose owners might opt for a tax break rather than selling it into private hands.

The firm's board of directors includes James Boyle, an intellectual property professor at Duke Law School; Hal Abelson, a computer science professor at the Massachusetts Institute of Technology; and Eric Saltzman, executive director of the Berkman Center for Internet and Society at Harvard Law School.

Source:

The Network Society of Control

New York Times Technology, May 13, 2002

Creative Industries vs. Creative Commons
by World-Information.Org [01.11.2002]

While cultural production is more and more privatized by the industry, the age-old idea of the commons undergoes a revival.

Whereas before the access to culture was the privilege of aristocracy, clergy, science and the upper classes with the end of the 16th century a trend towards opening this domain of social life to the general public started. First public museums and libraries were founded in the 17th and 18th century and enabled the average citizen to get access to a field that had been largely closed to him for hundreds of years. With the rise of modern society a distinctive sense for the moral reprehensibleness of entry restrictions to knowledge, education, culture and information developed. Successively the task of granting access to these resources was assumed by the state and cultural politics and government aids for the creative community were born. The necessity of those developments was argued with the need to free the arts from economic constraints. Culture should be liberated from the forces of the market so as to enable creativity and also ensure its accessibility to all. This concept of a resource held or enjoyed equally by a number of persons is largely based on the idea of the commons. A conception that derives from the land law and originally described the jointly used land of a community including pasture, woodland and fishing grounds, but also squares and roads. Although over the centuries its use in an agricultural context declined it has been adopted for other areas such as for example culture. Here in contrast to rivalrous resources such as land, where with each new user the proportional benefit becomes smaller the sharing of nonrivalrous resources eg. knowledge or art benefits everyone.

Quite contrary to this notion of a collective use of resources is the effect that the rise of the creative industries has had on the public domain. The term was coined in 1997 by Great Britain's Prime Minister Tony Blair who set up a Creative Industries Task Force which aimed at identifying industry sectors that combined creative content with export potential. By many this was seen as a good way out of the longstanding dichotomy between the creative arts and the cultural industries. While culture workers would benefit from the corporate financial support, the industry could prove that it was not only after profits, but also committed to fostering art and creativity. Yet while culture up till now continually had to struggle for its autonomy from government it now comes out of the frying pan into the fire. This is a result of the fact that the creative industries rather focus on the possibilities of economic exploitation than on the experimental, political and educational potential of cultural content. The concept of creative industries also conflicts with the - in a democratic context relevant - notions of pluralism and public sphere as it on one hand "has a tendency to limit, rather than expand, the range of what is permitted as 'culture'" (Osuri 2001) and on the other hand largely

monopolizes the access to culture and thus is in sharp contrast to the perception of a creative commons. Through copyright the creative industries turn cultural content into property, which in some cases assumes extremely bizarre shapes. For instance Mike Batt, English pop composer, was accused of infringing the copyright of American minimalist composer John Cage, after placing a one-minute silence on his latest CD - and saying it was a Mike Batt composition. While the attempt of putting a copyright on silence is presumably the most frightening incidence in the copyright discussion so far, excluding works from the public domain by means of intellectual property law has become common. This amongst others results in an erosion of the public sphere, which to a great extent is dependent on diversity and easy access to information and knowledge for all. A privatized public sphere endangers "the notion of struggle against subordination (in other words, any concept of social justice) and locates democratization in the realm of aesthetics and taste" (Osuri 2001). That media and communication matters are central to issues of social justice, fairness, equity and self-governance conflicts with the ideological rhetorical position that a corporate-dominated, commercially driven culture is something like a law of nature and thus automatically the best possible outcome for society.

Links
- Creative Commons
http://www.creativecommons.org
- Freie Software: Zwischen Privat- und Gemeineigentum (Volker Grassmuck)
http://freie-software.bpb.de
http://mikro.org/Events/OS/interface5/wissens-almende.html (excerpt)
- The Future of Ideas (Lawrence Lessig)
http://cyberlaw.stanford.edu/future/
- Stopping The Privatization Of Public Knowledge (David Bollier)
http://www.tompaine.com/feature.cfm/ID/6017

Source:
http://world-information.org/wio/issues/992021819

Frequently Asked Questions about the Creative Commons

Our frequently asked questions are grouped by category for your convenience. For specific questions not addressed below, please direct your inquiry to the appropriate team contact. We will respond to you as soon as possible.

General Questions
What is Creative Commons?

Who started Creative Commons?
What problem does Creative Commons intend to solve?
So what, exactly, does Creative Commons plan to do?
Does it cost me anything to use your licenses?
Who funds Creative Commons?
Whom does Creative Commons serve or represent?
Where is Creative Commons based?
Is Creative Commons part of Stanford Law School?
Does Creative Commons partner with any other organizations or institutions?
Aren't there enough licenses out there already?
Does Creative Commons host or own any content?
Is Creative Commons involved in digital rights management (DRM)?
What happens if someone tries to protect a CC-licensed work with digital rights management (DRM) tools?
This is a great idea! How can I help?

Legal Questions
Is Creative Commons against copyright?
Will works that use Creative Commons licenses be in the "public domain"?
Are some combinations of the custom license options incompatible?
Do Creative Commons licenses affect fair use rights?
What happens when a copyright owner says her work is governed by two different Creative Commons licenses?
What legal standing will CC licenses have outside of the United States?
Will Creative Commons help me enforce my license?

Questions from Potential Contributors
Why should I turn my work over to the public domain, or make it available under a Creative Commons license, if copyright provides more legal protection?

Technical Questions
Why did Creative Commons choose to use the RDF format for its metadata?
How can I use Creative Commons metadata in my program?

General Questions

What is Creative Commons?
Creative Commons is a non-profit corporation founded on the notion that some people may not want to exercise all of the intellectual property rights the law affords them. We believe there is an unmet demand for an easy yet reliable way to tell the world, "Some rights reserved," or even, "No rights reserved."

Many people have long-since concluded that all-out copyright doesn’t help them gain the exposure and widespread distribution they want. Many

entrepreneurs and artists have come to prefer relying on innovative business models than full-fledged copyright to secure a return on their creative investment. Still others get fulfillment from contributing to and participating in an intellectual commons.

For whatever reasons, it is clear that many citizens of the Internet want share their work -- and the power to reuse, modify, and distribute their work -- with others on generous terms. Creative Commons intends to help people express this preference for sharing by offering the world a set of licenses on our Website, at no charge.
-> back to questions

Who started Creative Commons?
Cyberlaw and intellectual property experts James Boyle, Michael Carroll, and Lawrence Lessig, MIT computer science professor Hal Abelson, lawyer-turned-documentary filmmaker-turned-cyberlaw expert Eric Saltzman, and public domain Web publisher Eric Eldred founded Creative Commons in 2001. Fellows and students at the Berkman Center for Internet & Society at Harvard Law School helped get the project off the ground. Creative Commons is now based at and receives generous support from Stanford Law School, where we share space, staff, and inspiration with the Stanford Law School Center for Internet and Society.
-> back to questions

What problem does Creative Commons intend to solve?
Creative works are automatically copyrighted as soon as they "are fixed in a tangible medium of expression." The moment you lift your pen from a cocktail napkin doodle, you earn an exclusive right to copy and distribute that doodle. In some countries, including the United States, no copyright notice is required.

Many people may prefer an alternative to this "copyright by default," particularly those who do their creating on the Internet -- a place that has always promised unfettered communication and collaboration.

In theory anyway. Ironically, there is no easy way to announce that you intend to enforce only some your rights, or none at all. At the same time -- and again because copyright notice is optional -- people who want to copy and reuse creative works have no reliable way to identify works available for such uses.

We hope to provide some tools that solve both problems: a set of free public licenses sturdy enough to withstand a court's scrutiny, simple enough for non-lawyers to use, and yet sophisticated enough to be identified by various Web applications.

-> Read about some examples of how Creative Commons hopes to promote collaborative creativity.

-> back to questions

So what, exactly, does Creative Commons plan to do?

Our first project is to offer the public a set of copyright licenses free of charge. These licenses will help people tell the world that their copyrighted works are free for sharing -- but only on certain conditions.

For example, if you don't mind people copying and distributing your online photograph so long as they give you credit, we'll have a license that helps you say so. If you want the world to copy your band's MP3 but don't want them to profit off it without asking, you can use one of our licenses to express that preference. With the help of our licensing tools, you'll even be able to mix and match such preferences from a menu of options:

- Attribution. Permit others to copy, distribute, display, and perform the work and derivative works based upon it only if they give you credit.
- Noncommercial. Permit others to copy, distribute, display, and perform the work and derivative works based upon it only for noncommercial purposes.
- No Derivative Works. Permit others to copy, distribute, display and perform only verbatim copies of the work, not derivative works based upon it.
- Copyleft. Permit others to distribute derivative works only under a license identical to the license that governs your work.

When you've made your choices, you'll get the appropriate license expressed in three ways:

1. Commons Deed. A simple, plain-language summary of the license, complete with the relevant icons.
2. Legal Code. The fine print that you need to be sure the license will stand up in court.
3. Digital Code. A machine-readable translation of the license that helps search engines and other applications identify your work by its terms of use.

If you prefer to disclaim all ownership - in the footsteps of innovators ranging from Benjamin Franklin to modern-day software pioneers - we'll help you do that, too. You can dedicate your work to the pool of unregulated creativity known as the public domain, where nothing is owned and all is permitted. In other words, we'll help you declare, "No rights reserved."

-> back to questions

Does it cost me anything to use your licenses?

Nope. They're free.

-> back to questions

Who funds Creative Commons?

Creative Commons was founded with a generous donation from the Center for the Public Domain. We also thank the John D. and Catherine T. MacArthur Foundation, from whom we received another substantial grant this year. We

continue to seek donations from other sources, including foundations, individuals, and government grants.
-> back to questions

Whom does Creative Commons serve or represent?
Creative Commons serves the public interest in a robust exchange of expression, knowledge, and art. We will help people who want to license their work on generous terms, people who want to make creative uses of those works, and people who benefit from this symbiosis. We hope that teachers, scholars, scientists, writers, photographers, filmmakers, musicians, graphic designers, Web hobbyists - as well as listeners, readers, and viewers - gain from the use of our tools.
-> back to questions

Where is Creative Commons based?
Creative Commons is a Massachusetts corporation that draws on the work of geographically distributed staff and volunteers. The core team is based at the Stanford Law School Center for Internet and Society.
-> back to questions

Is Creative Commons part of Stanford Law School?
No, but Creative Commons does share space, personnel, and inspiration with the Stanford Law School Center for Internet and Society, and receives generous support from Stanford Law School.
-> back to questions

Does Creative Commons work with any other organizations or institutions?
Creative Commons is pursuing collaborations with a few like-minded organizations. See our Collaborators page to learn more, or contact us if you or your organization would like to help.
-> back to questions

Aren't there enough licenses out there already?
What will Creative Commons add to what's already being done?
We take inspiration from other folks interested in promoting the sharing of creative works. Foremost of these is Richard Stallman, founder of The Free Software Foundation and author of the General Public License, or GPL.

We want to complement, rather than compete with, these existing efforts to ease online sharing and collaboration. Right now we don't plan to get involved in software licensing at all. Instead, we'll concentrate on scholarship, film, literature, music, photography, and other kinds of creative works. To the extent that we'll deal with types of content that others are already building licenses for -- take the EFF's Open Audio License, for example -- we view that as a good thing. The more ways authors have to get their works out in the public sphere, the better.
-> back to questions

Does Creative Commons host or own any content?

Not right now. We'll simply help you license your own and point to examples of CC-licensed content from our featured content registry. We'll also offer ways for users to find licensed works and easily understand their license terms. Sometime next year, we plan to launch a separate project that will involve our owning the rights to certain works: the Creative Commons Conservancy. We'll accept donations of various kinds of intellectual works -- including software -- which we'll then license to the public on generous terms.
-> back to questions

Is Creative Commons involved in digital rights management (DRM)?
No; we prefer to describe the technical aspect of our work as digital rights description. Whereas digital rights management tools try to prevent certain uses of copyright works and restrict your rights, we're trying to promote certain uses and grant you rights. Instead of having software say, "No, you cannot modify this file," we want it to say something more like, "The author will let you modify this file, but in return, give them credit."

While the tools are similar, our goals are different. Instead of using one of the many DRM formats, we've chosen to go with the W3C's RDF/XML format. Instead of saying, "We're not placing these restrictions," we say, "We grant you these permissions," so that search engines and other applications can easily find generously licensed works and sort them.

A physical analogy may be helpful. It's DRM's job to put up signs that say "No Trespassing." It would seem silly to take those signs and change them to say "Yes Trespassing," which is what using a DRM format to express our licenses would be like. Instead, we're building new signs that say, "Welcome, Please Come In," and that use different colors and designs to convey their different message.

We're leaving "enforcement" to the law, social norms, and the good faith of the participants. Our tools act as informative aids, not instruments of control. We want to help copyright holders notify others of their obligations and freedoms, and to help everyone find places on the Internet where creative reuses are encouraged.
-> back to questions

What happens if someone tries to protect a CC-licensed work with digital rights management (DRM) tools?
If a person uses DRM tools to restrict any of the rights granted in the license, that person violates the license. All of our licenses prohibit licensees from "distributing the Work with any technological measures that control access or use of the Work in a manner inconsistent with the terms of this License Agreement."
-> back to questions

This is a great idea! How can I help?
We want your feedback and welcome your input and participation.
-> Please contact us.
-> back to questions
Legal Questions

Is Creative Commons against copyright?
No. The justification for intellectual property protection (under U.S. law, at least) is the “promot[ion of] the progress of science and the useful arts." We want to promote science and the useful arts, too, and believe that helping creators fine-tune the exercise of their rights to suit their preferences helps do just that.
-> back to questions

Will works that use Creative Commons licenses be in the "public domain"?
If you want to put your work in the public domain -- the realm of creative material unfettered by copyright law -- we can help you do that. If you want to keep your copyright and a measure of control, you can use one of our licenses. These licenses won't release your work in the public domain, but they will encourage creative re-uses of your work in ways that full copyright protection does not.
-> back to questions

Are some combinations of the custom license options incompatible?
There is one combination of options that does not make sense: No Derivative Works combined with Copyleft. This combination does not work because the Copyleft condition applies only to derivative works. If you choose both options, we'll give you a friendly reminder about this and ask that you please make your selection again.

Note that every Creative Commons license requires licensees to attach the original license terms to every verbatim copy they distribute. So if you copy a music file licensed under a noncommercial license, you must tell the world that your copy of that file is also licensed under a noncommercial license.

The Copyleft option simply extends this requirement to all derivative works as well. So if you were to use that same noncommercial MP3 in a documentary film, the Copyleft provision would oblige you to license your film under a noncommercial license, too.
-> back to questions

Do Creative Commons licenses affect fair use rights?
No. All of our licenses include this language: "Nothing in this license is intended to reduce, limit, or restrict any rights arising from fair use, first sale or other limitations on the exclusive rights of the copyright owner under copyright law or other applicable laws."

Fair use, the first sale doctrine, and other such limitations apply whether a copyright holder consents to them or not. That's a good thing, and we want to let such rights be.
-> back to questions

What happens when a copyright owner says her work is governed by two different Creative Commons licenses?
Choose which license you'd like to use the work under. Generally, a licensor that offers the same work under two different licenses gives the public a choice between them. If, for example, a photograph is governed by one license with a noncommercial provision, plus a separate license with an attribution provision, it does not mean that both provisions apply together. If an owner wants both to apply together, she should be sure to choose a single license that contains both provisions.
-> back to questions

What legal standing will CC licenses have outside of the United States?
We and our lawyers have worked hard to craft the licenses to be enforceable in as many jurisdictions as possible. That said, we can not account for every last nuance in the world's various copyright laws, at least not given our current resources. We hope, as our resources and network of allies grow, to begin offering licenses designed for specific jurisdictions sometime in 2003.

Please note, however, that our licenses contain "severability" clauses -- meaning that, if a certain provision is found to be unforeceable in a certain place, that provision and only that provision drops out of the license, leaving the rest of the agreement intact.
-> back to questions

Will Creative Commons help me enforce my license?
No, we will only provide the license, plus a plain-language summary and machine-readable translation of it. We're not a law firm. We're much like a legal self-help press that offers form documentation -- at no cost -- for you to use however you see fit. We cannot afford to provide any ancillary services particular to your situation and, in any case, our mission does not include providing such services.
-> back to questions

Questions from Potential Contributors

Why should I turn my work over to the public domain, or make it available under a Creative Commons Custom license, if copyright provides more legal protection?
You might do so for a few reasons. Some people may be attracted by the notion of others building upon their work, or by the prospect of

contributing to an intellectual commons. As the Creative Commons community grows, licensors will have the satisfaction of helping develop new ways to collaborate.

Or you might license your stuff purely out of self-interest. A scholar might want his writings to be copied and shared so that his ideas spread around the world. An upstart designer may want to encourage the unfettered dissemination of her sketches to help build a reputation. An established commercial musician might post samples to whet the public's appetite for his other, fully protected songs. A political activist may want her message to reach the widest possible audience through unlimited copying.

Our licenses can help implement such strategies, all while leaving you in ultimate control of your copyright.
-> Read more examples.
-> back to questions

Technical Questions

Why did Creative Commons choose to use the RDF format for its metadata?
Creative Commons looked for the best way to express the intent behind the licenses in machine-readable form. We feel that our system provides the best of all worlds: RDF, XML and even plain text-based tools can easily process our metadata files because we provide them with a structured format. But just as XML tools make it easier to process the information than text-based ones, RDF ones make it even easier -- so we encourage all of our developers to use RDF tools where possible. We're also working with the community to provide CC sample code, in many different languages, that shows how easy it is to take advantage of the RDF information. We're also open to providing converters from RDF to other formats. If you have such a tool or would like one, please send information about it to our metadata list.
-> back to questions

How can I use Creative Commons metadata in my program?
You can use it in a variety of ways. A painting, writing, or drawing program could let its users know about their rights granted by the licensor of the file. File sharing software could highlight files with Creative Commons licenses and encourage users to download them. In fact, we see peer-to-peer file sharing software as an excellent distribution mechanism for Creative Commons works, especially large music, picture, and movie files that the author might not have the bandwidth or tools necessary to distribute themselves. Search systems could allow users the choice of only searching for files with licenses that permit certain uses (such as searching for pictures of cats that you can include in your non-commercial collage). There are many ways to take advantage of this information and we hope the developer community will surprise us by coming up with others!

-> back to questions

Source:
http://creativecommons.org/faq/

Architectures of Control. Containment And Information
by World-Information.Org [06.11.2002]

A far cry from the optimistic sentiment that ran across the emerging net community in the mid Nineties, „freedom of information" in electronic networks is increasingly viewed as a „security hazard". Systems of containment are emerging, in which data, but also bodies are directed by architectures of control.

While the EU has decided to scan all immigrants and asylum seekers biometrically in order to be able to track them, and in Britain a 11-year-old girl is expecting a tracking-chip to be implanted under her skin, private prison management companies such as Corrections Corporation of America or Wackenhut are transforming prisons into experimentation grounds for new tracking technologies. Yet by entrusting surveillance to private companies accountability to the political system and its citizens is slowly, but surely disappearing.

Applied to data instead of bodies this trend is called Digital Rights Management (DRM); the privatization of access and control of information. DRM manufacturer and huge media and entertainment corporations seek to turn the infosphere into a controlled environment dominated by so-called „trusted systems". Systems that can be trusted by the "data lords", in order to make the Intellectual Property (IP) rights business as profitable as possible.

DRM is set to redesign the entire information landscape with a view to technically enforcing copyrights payment. To that end it tries to turn the accustomed PC into something like a remote-controlled sales terminal. "Who should your computer take its orders from? With a plan they call "trusted computing", large media corporations (including the movie companies and record companies), together with computer companies such as Microsoft and Intel, are planning to make your computer obey them instead of you" warns Richard Stallman of Free Software Foundation.

In a "trusted environment", the prisoner's tracking cuff is replaced by watermarks and similar encodings. The rules and standards that will make trusted systems work are established in the exclusive environments of corporations. Yet these standards will soon be decisive for every body, they will shape people's behavior in a subtle but effective fashion. Once the values and interests have taken on the shape of seemingly neutral technical standards, they will simply be accepted without further questions.

Yet new emerging open spaces are pointing the other way. Numerous initiatives work at revitalizing the idea of the commons, a resource held "in common" that is equally enjoyed by a number of persons. Originally derived from the land law they transfer this concept in a digital context

by making available content to the broad public for free. In contrast to the idea of DRM, which creates an elitist society where only those who can afford it are allowed access to information, projects derived from the conception of a commons aim at including rather than excluding as many as possible from the infosphere.

Following this claim a range of initiatives are set to recover open space for information exchange and shake off information handcuffs, not by "breaking" copyright, but by avoiding it in the first place. In science, a recent project is the International Mathematical Union's global network that recommends its members to publish all research free of charge. Others, such as the German Initiative for Network Information are trying to develop a digital commons for research, bypassing subscription fees that can amount to thousands of Euros for specialized journals and databanks or UNESCO that has recognized the importance of free software for development and dedicated a free software portal.

But besides those more well-known projects there exists a much larger number of smaller, civil-society initiatives of free information sharing that are set to revitalize the commons. Cultural groupware, free software, peer-to-peer platforms are all part of a new appreciation of the digital public domain.

Links
- Corrections Corporation of America
http://www.correctionscorp.com
- Wackenhut
http://www.wackenhut.org
- Recording Industry Association of America (RIAA)
http://www.riaa.org/index.cfm
- International Mathematical Union
http://elib.zib.de/IMU/IMU_Committees/best_practices.html
- German Initiative for Network Information
http://www.dini.de
- UNESCO Free Software Portal
http://www.unesco.org/webworld/portal_freesoft/index.shtml

Source:
http://world-information.org/wio/issues/992021819

Anti-DMCA FAQ

Ask yourself: does the United States Consitution consider the rights of corporations to be more important than rights of individuals?
If you said "no!", we agree with you whole-heartedly. Now what is the World Intellectual Property Organization (WIPO) doing passing laws in the US? Read on.

Why did Congress pass the DMCA?
The World Intellectual Property Organization (WIPO) drafted an international treaty that requires signatory nations to enforce particular rights in their own National laws. Some believed further U.S. legislation was necessary to implement U.S. adherence to the treaty. The result was the DMCA. It is sometimes referred to as the WIPO Treaty Implementing Legislation.

Why is the DMCA so bad?
The DMCA makes is a crime to "circumvent" copyright protection systems. Here is the language:
`Sec. 1201. Circumvention of copyright protection systems
`(2) No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof, that--

Computer Scientists can no longer research software to ensure it provides adequate protection.

Here is an analogy: The NTSB conducts crash tests to ensure vechicles protect passengers in the event of an accident. Computer Scientists and Security experts conduct similar testing with software. This testing ensures adequate protection from crackers, failure, weak security, etc. Often, a researcher will write a paper describing an attack. This paper must then be translated into computer code often referred to as "Proof of Concept" code. Without code, the researcher has no proof his theory works. The law provides certain exemptions for research, however they are unclear and must be approved by the Corporation who created the software. If this corporation knows their software is weak or knows it can be cracked, why should they allow someone to actually test it!? This is what happened to Princeton Professor Felten and his research team when they were threatened by the RIAA.

Don't think this law is limited to the US. Similar laws along with outrageous Search and Seizure laws are also being enacted around the globe.

Why are all these countries suddenly taking oddly similar approaches? WTO + WIPO = DMCA.
Futhermore, Source code == Speech. Mathematicians use symbols. The Deaf speak with their hands. Programmers speak in code. To relate E equals the

product of M times the square of C, I could write it out or just use symbols.
e = mc^2.
e = mc2

The same is true for computer code. It is sometimes the best way to relate something. Besides, how can I prove a flaw exists without code to back it up? Furthermore, Professor Felten could not publish a paper critizing and showing flaws in a protection system for fear of arrest. This was just a paper!

There are many other issues with this law, but you should find the information and parts of the law you are most interested in.

How is the DMCA related to the WTO?
The World Trade Organization (WTO) meets once a year to discuss policy and law. These policies and laws must be enacted by the signatory Nations. People all over the world meet during WTO meetings to protest Globalization. Why? Well, there are many reasons. But know this - they are making laws and signing treaties without your input. Is the WTO democratically controlled? The DMCA is a result of one of these treaties. Here in the US the arrests and cases on this site are just the first effects of these meetings. Take a look at this.

So how does this affect me?
Look to history for your answer. Quite some time ago, our leaders met to discuss policy and create laws. These laws became The Constitution of the United States of America. If you have reviewed our Cases section you will see that our laws are being changed to accomodate the laws passed by the (WTO). Why is this important? The WTO looks at member Nations as representing raw materials. It is cheaper to produce certain goods in certain countries depending on labor, environmental and other factors. Here in the US we produce a large amount of Intellectual Property. This export must be controlled and regulated, just as any other raw material is controlled and regulated. However, the copy control corporations would like to make sure they charge you every time you use this product. This charge could be extended to Books, Journals, Libraries, etc. Hence the fight for eBooks and the severe prosecution for copy control violations. (10 Years in Prison in the US).

What is the Digital Millenium Copyright Act?
Copyright, in the United States, is an attempt to maximize the intellectual resources available to all. People who create works - literature, art, software programs, music, and others - are given a limited right to keep people from making unauthorized copies of their work. This allows them to sell copies for a profit and provides a financial incentive to create more works.

In exchange for this, the public demands a number of concessions, primarily the following three:
1. Fair use is the right to make unauthorized copies of works for certain protected purposes - mainly for academics, reporting, or criticism. When a student quotes a book in a high school paper, she is making a fair use, and can't be stopped by the copyright owner.
2. First sale is the right to sell a copy over and over again, once it is made, as long as you don't make any new copies. When you read a book, then sell it to a used book store to be bought and read by someone else, you're exercising your rights under first sale.
3. Limited time - copyrights are granted for a limited time. After that time expires, the work goes into the public domain - it can be copied and used by anyone, for any reason.

How does the DMCA relate to Copyright and therefore affect me?
The DMCA is the Digital Millenium Copyright Act, passed by the U.S. Congress in 1998, supposedly to update copyright law for electronic commerce and electronic content providers. Unfortunately, this law is very poorly written, and is now regularly used by corporations to restrain the three primary concessions of copyright and otherwise prevent free speech activity.

The DMCA has one particularly bad section, called the anti-circumvention provision. That section makes it a crime to break encryption used to prevent someone from getting access to electronic content, or to "traffic" in a tool used to do so. This section is written so broadly, that, in theory, decoding the sentence E-thay mca-day eally-ray ucks-say from the Pig Latin could be a crime. It doesn't matter why, either. If it's not for financial gain, it might not be a crime, but you'll get sued for astronomical amounts of money. Suppose you're a professor who wants to publish a paper criticizing, with excerpts, an e-book. Under normal copyright law, you would be free to do so under the fair use doctrine. Under the DMCA, the corporation could prevent you from doing so by building techchnological access controls to prevent anyone from selling the book to you, and you would be barred by law from breaking those controls.

Needless to say, the DMCA also raises huge concerns about free speech.

What happened to Dmitry Sklyarov?
Dmitry Sklyarov is a Russian cryptographer. In order to expose the childishly simple encryption used on a e-book reader made by the Adobe Corporation (not much more difficult than Pig Latin), he wrote a program used to decrypt eBooks encrypted with Adobe's program. A company he works for then sold it over the Internet. Mr. Sklyarov then came to the U.S., to discuss his work at a security convention in Las Vegas. Adobe, aware he would be coming to the U.S., ordered the FBI to arrest him. As we all know, you can not deliver a persuasive speech unless you have supporting

evidence. Well, Sklyarov created an application which proved Adobe had not used adequate security to protect eBooks as this supporing evidence.
Programmers speak in Code.
Mathematicians speak in Symbols.
The Deaf speak with their Hands.

What can I do?
There are a couple options.
1. Sign up for the DMCA Discuss mailing list to become more informed.
2. Add our banner to your site and spread the word.
3. Inform other people by learning about the DMCA and explaining it in terms they understand.
4. Demand the release of Dmitry Sklyarov.
5. Support the EFF.
6. Be careful who you get information from. There is much double talk about the DMCA. Read the law. Read this site and find other facts. Look at the US Trade Rep/WTO documents, especially page 13. These are laws. We couldn't make this stuff up if we tried.

What is ROT-13?
ROT-13 is Rotate 13. It is an encryption algorithm of sorts. It works like this:
Plain text:
This is your protection on Adobe eBooks.
Encrypted:
Guvf vf lbhe cebgrpgvba ba Nqbor rObbxf.

You rotate the letters in the alphabet 13 positions. 'B' the second letter becomes 'O' the fifteenth letter. Most people use it for fun, not protection.

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#!/bin/sh tr 'a-zA-Z' 'n-za-mN-ZA-M'
```

Source:
http://www.anti-dmca.org/faq.html

Commodification of Culture Harms Creators
by Howard Besser

Creators draw upon a wealth of pre-existing material in developing new works. Access to and availability of our rich cultural heritage is critical to the creative process. Yet at the end of the 20th century we began to see access to that culture being walled off. In a veritable assault on access

to our common heritage, various segments of the content industry have used the courts, the legislative process, technological developments, and downright bullying as part of a broad attempt to turn our cultural heritage into a common commodity (one that is owned, leased, and controlled). If this trajectory continues into the 21st century, this commodification of our cultural heritage will have serious implications for artists, writers, and other creators.

In this paper, the author first discusses the importance of prior works to the creation of new works, and shows why broad and free access to a "commons" of cultural information is critical to the creative process. He then discusses how the various pieces of this commons are rapidly being whittled away by the content industry. Finally, he points to the overlapping interests of creators and users of information, and illustrates that they have more in common with each other than with the content industry.

The Importance of Pre-existing Works to the Creation of New Works

Historically, a rich set of public content has inspired creativity, both because content was easily accessible, and because people clearly had the right to copy, reinterpret, and riff off of pre-existing content.

Fairy tales and ballads have been reinterpreted in new and creative ways that are too numerous to count. And there have likely been tens of thousands of interpretations of the dramatic works of just one man (Shakespeare). Works like *West Side Story* and Disney's *Sleeping Beauty* and *Hunchback of Notre Dame* have relied on pre-existing works that are in the public domain -- freely accessible for copying and reinterpretation without having to ask anyone's permission.

At its root, visual art is about representation, which is a form of copying. From the earliest surviving human paintings that sought to copy the outside environment onto cave walls, art has involved copying either scenes from the real world or copying the works of other artists. We teach art to our children by having them copy master artworks. Art schools for adults teach techniques by having students copy pre-existing works. Even some art works commonly regarded as masterpieces are essentially copies of pre-existing works.

For 1,000 years art was dominated by religious scenes. A huge number of artworks feature Jesus, Madonna, Buddah, or Gnisha, many of these copying the exact same scene.

In the 20th century we saw a shift in art from taking whole pre-existing works and representing them within the subsequent artist's vision, to taking parts of pre-existing works and recontextualizing these. From the collage art of the 1900s, to the dadaists of the 1910s, to the pop art of the 1960s, to postmodern art of the post-1970s, 20th century art has been

dominated by the act of taking pre-existing pieces and recontextualizing these. As we enter the 21st century, we can expect an even greater use of pre-existing pieces by creators, as multimedia and hypermedia developers contend that the concept of "repurposing" is critical to their work.

Many believe that, due to the rise of commercial media in the 20th century, art responded by recontextualizing commercial images. This kind of art is a form of commentary on those images, and essentially a form of free speech. Artists known as "culture-jammers" complain about being bombarded by billboards, advertisements, and media images from the corporate sector. They insist that incorporating pieces from these media images into their social commentary art works is the only way that other voices can be heard amidst a sea of corporate-controlled images that engulf our lives (Lasn).

Rap music makes a similar claim. Emerging from a community that has traditionally been powerless, rap musicians use the process of sampling to recontextualize the dominant society's music and "take back the power".

Historically, the key social mechanism that permitted this widespread prolifieration of reinterpreting and recontextualizing pre-existing works, was the reigning social attitude that one could freely do this. Though individuals or organizations could own a physical work of art, throughout most of history there was no concept of intellectual property -- owning a monopoly on the copying and reinterpretation of a work. Copying was considered an homage, a form of flattery. Though the emergence of a mechanical process for making precise copies (photography) did challenge the access control asserted by the owners of physical works of art (Benjamin 1978), it was not until 100 years later that serious attempts to limit the rights to copy pre-existing works began to arise.

The legal mechanisms that permitted access, reinterpretation, and recontextualization of pre-existing works were enshrined in a series of principles: a robust public domain, time limits for any copyright monopoly, fair use, and first sale. In the 1990s, all these legal principles came under an unrelenting attack. All these principles have already been severely curtailed, and all are in danger of being completely eliminated.

If changes continue on the same trajectory, we can imagine a future where creators will no longer be able to make free use of pre-existing material. A future where critics cannot use media works to comment on or criticize those very works. A future where the heirs of today's prolific playright forbid restaging of interpretations (like turning *Romeo and Juliet* into *West Side Story*). A world where anyone sampling music or even singing ballads must first obtain permission from a copyright holder. A world where oly a priveleged few can write stories about coyrighted planets or races. A world where children must obtain permission for each image they cut out to make a collage. Unfortunately, that future is with us now, with threatened

litigation over works like *The Wind Done Gone* and *Pretty Woman*, as well as attempts to prevent fans from writing stories about Vulcans or Klingons, and girl scouts from singing songs like *Happy Birthday*.
Let us now turn to these copyright legal concepts and principles, to understand what purpose they have served and how they are changing.

Copyright concepts
Though many copyright holders view copyright as an "economic right" that protects their ability to make money off content, US copyright law was actually established to promote the "public good" by encouraging the production and distribution of content. Article 1, Section 8 of the US Constitution states:

'The Congress shall have power ...to provide for the ... general welfare of the United States To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;' [emphasis added]

The goal of copyright is to "provide for the general welfare" and "promote the progress of science and useful arts" by encouraging further creation. The rationale behind copyright is that granting creators temporary monopoly rights over their creations will encourage them to create more. The real goal of copyright is to ensure that new knowledge will be developed and circulated through society.

Underpinning much of the recent rhetoric by the "content industry" is a view of copyright as an unlimited economic right. This logic is misguided since the economic rights granted by copyright are just a byproduct of attempts to fulfill the societal need to increase creativity. Though it granted Congress the power to give creators monopoly control over their creations, the Constitution was careful to set controls on that monopoly by stating that it could only endure for "limited times". After these time limits expire, a work enters the *public domain* where anyone can use it for any purpose they see fit.

Prior to the "digital age" a delicate balance had emerged between copyright holders on the one hand, and the general public on the other hand. Copyright holders had certain exclusive rights over their material, but those rights were tempered by access rights held by the public. The two most important public rights were **fair use** and **first sale.**

Fair Use (a common practice which was codified into law in Section 107 of the 1976 Copyright Law) limits a copyright holder's monopoly over the use of his/her work by permitting copying under a limited set of circumstances for uses such as education, private study, and satire. The *fair use* doctrine assumes that these types of uses constitute a compelling enough social good that even if a copyright holder wanted to prevent such uses of their material, the law would not support them. It is *fair use* that allows

students to photocopy copyrighted articles for personal use, teachers to read excerpts from copyrighted works in class, reviewers to quote from copyrighted works in their published reviews, and satirists to incorporate portions of copyrighted works into their satires.

The **First Sale** doctrine limits a rightsholder's control over a copy of a work to the very first time that copy is sold. According to first sale, anyone who purchases a work can then do what they want with that copy, even if the rightsholder opposes that use. First sale allows the purchaser of a work to resell it, lend it, share it, or destroy it -- without ever consulting the rightsholder. Among other social benefits, the first sale doctrine has permitted libraries, used bookstores, and used record stores to operate without having to consult with a rightsholder each time they lend or sell a work.

An Information Commons

Taken together, a robust *public domain*, time limits for any copyright monopoly, and the concepts of *fair use* and *first sale* create a rich public arena. It is this arena that creators draw upon for raw materials for new creations. It is this arena that we use to teach our children about our cultural heritage (and, to a large degree, it **is** our cultural heritage). And this arena is a center for our public discourse, for clashing views on culture, and for free speech challenges to dominant cultural forms. We call this arena an **information commons.** A number of previous authors (see Besser Information Commons) have made the case for an *information commons* in the telecommunications arena (Benkler 1998, Lessig 1999a), as an area for ideas to flourish (Lessig 1999b), or have made legal arguments in its favor (Benkler 1999). These other others have emphasized the social role of a commons in maintaining free speech. In this paper, the author will discuss an *information commons* primarily from the standpoint of its relationship to creation of new works, as well as from its social function.

In his seminal work from the early 1990s, Lee Felsenstein made the case for the Internet becoming the **Commons** of the future (Felsenstein, 1993).[1] A Commons is a space that no one owns, and no one controls. For the ancient Greeks, this space was known as the Agora. In the Middle Ages it was known as the Commons. In the 20th century it was parks, streets, town squares, and coffeehouses. It is a space where free speech, public discourse, and creativity flourishes. And though buying, selling, and advertising can take place in a Commons, Felsenstein contends that it really is much more than that:

What goes on in these marketplaces is more than commerce. People hang out there, display their identities (usually as members of groups), gather groups of friends, banter and gossip within and among the groups, overhear others' conversations, and inject themselves temporarily into those conversations. In short, they get to know who the other people are who

share their society, and keep up with their daily doings. (Felsenstein 1993)

An *information commons* is critical to society as we know it. Creators draw on it for new works. Scholars use it for new discoveries. Teachers teach with it, young people learn from it. It is a place where we are exposed to diversity in terms of culture, people, and ideas. It is a key part of public discourse.

Our information commons includes the works of Shakespeare, the fables of Aesop and Grimm, the speeches of Jefferson, untold number of hundred-year-old ballads, and characters like Aladdin, Snow White, Sleeping Beauty, Rip van Winkle. Our information commons is the essence of our cultural heritage.

But few 20th century works are part of our information commons, and it appears increasingly likely that few of these ever will be. Where characters like Mickey Mouse and Barbie were fundamental parts of our cultural upbringing, aggressive enforcement of intellectual property laws prevent us from using representations of these characters in new works or social commentaries. Towards the end of the 20th century, we saw our information commons begin to rapidly erode through increasing terms for copyright monopolies, diminishment of a public domain, and severe limitations on both *fair use* and *first sale*.

The Erosion of the Information Commons

In previous centuries, the erosion of the Commons was accompanied by serious attempt s by small (often already powerful) groups to grab power. At the dawn of the industrial revolution, England adopted the "Enclosures Act" which deeded the village common grazing lands to whomever could build a fence around them. The wealthy few who could afford the cost of fencing prospered, and many of them leveraged this prosperity to dominate the emerging industrial market. [2] At the same time, according to Felsenstein, those who could not afford to pay for fencing off common land became indentured servants to those who could, and many experienced homelessness and starvation.

In recent years we have begun to experience the erosion of various aspects of our contemporary commons. With the privatization of broadcast frequencies and massive consolidation within the industry, we have seen the further concentration of media in the hands of a very few, and the marginalization of diverse or challenging voices through attempts to severely limit low-power radio and community radio stations. With the commercialization of the Internet we have seen the promised commons where "anyone can have a voice or be an information provider" decay into a situation where everyone can be a passive consumer (Besser 1995). And in physical space, we have seen our city center commons being replaced by shopping malls which on the surface look similar, but are really privatized

spaces devoid of free speech or open discourse (and habitually ban individuals who wear clothing that mall proprietors associate with colors used by gangs). In all these cases, we have seen a commons replaced by a pseudo-commons -- something that retains the myth of free access, diversity, and free speech, while eliminating the very heart of this.

Our information commons are also being eroded, and replaced with a pseudo-commons that retains the myths of an open society, free access, diversity, and free speech; a society where anyone can be an information producer, a creator of culture. Just as the coming industrial revolution provided an excuse for the wealthy to enclose the commons grazing land, the current information age is providing an excuse for the content industry (publishers, motion picture studios, music distributors, etc.) to fence off access to our information commons.

The coming of the digital age threatened to upset the delicate balance between rightsholders and users in copyright law (National Academy 2000). In response to that threat, the content industry has engaged in a veritable assault on long-standing public interest practices. In what law professor Pam Samuelson has termed the "Copyright Grab" (Samuelson), the content industry is exploiting concerns over digitization and attempting to reshape the law by strengthening protection for copyrightsholders and weakening public rights to access and use material. To do this they have employed a variety of techniques: shaping new legislation, aggressively pursuing lawsuits, employing technological schemes (such as copy protection) that prevent fair use access, and shifting to licensing and other forms of contract law that let them skirt fair use rights.

Recent attempts to overhaul the copyright law have been prompted by strong lobbying efforts from the "content industry". The content industry was one of the leading supporters of Clinton's first campaign for the presidency, and after taking office Clinton appointed former copyright industry lobbyist Bruce Lehman as Assistant Secretary of Commerce and Commissioner of Patents and Trademarks. Lehman was given the task of managing efforts to overhaul the nation's intellectual property laws, and he was the driving force behind the Administration's green paper and white paper recommendations on major changes to intellectual property laws (Samuelson).

As copyright legislation was passing through Congress, content industry lobbyists aggressively courted Congresspeople. The Association of American Publisers hired former Congresswoman Pat Shroeder to head their organization and act as chief spokesperson. In the 1996 election, the content industry had already donated over $11 million to congressional campaigns, split fairly evenly between Democrats and Republicans (Makinson). In the early part of the 1998 campaign (while copyright legislation was being debated in Congress), Hollywood connected donors gave more than $1.3 million to congressional campaigns (Mother Jones 400). The

content industry also waged a strong public relations campaign, claiming that the American economy would suffer irreparable harm if copyright controls were not tightened. After the Digital Millenium Copyright Act and the Sonny Bono Term Extension Act finally passed through Congress, an Associated Press story revealed that Disney had lobbied hard for the new law (particularly portions which extended copyright protection for an additional 20 years) because Disney's copyright over characters such as Mickey Mouse, Goofy, and Donald Duck were due to expire soon (Salant). Not surprisingly, a week after the Digital Millenium Copyright Act was signed into law, Bruce Lehman resigned his Administration post, having accomplished most of what he set out to do on behalf of the content industry.

This 1998 legislation both took works that had already entered the public domain and put them back under copyright monopoly control, as well as extended (for at least 20 more years) the copyright on a large number of works that were about to pass into the public domain in the next few years. Affected works include: Virginia Woolf's *Jacob's Room*, Buster Keaton's *Sherlock Jr.* F. Scott Fitzgerald's *Hot and Cold Blood* and *Invasion of the Sanctuary* , Ben Hecht's *Fingers at the Window*, Rudyard Kipling's *Independence and London Stone*, half a dozen works by P.G. Wodehouse, etc. Works that we're scheduled to enter the public domain quite soon but must now wait at least 20 more years include: Irving Berlin's ***Blue Skies*** (2002), Harry Woods' ***When the Red, Red Robin Comes Bob, Bob Bobbin' Along*** (2002), Oscar Hammerstein II and Jerome Kern's ***Ol' Man River*** and ***Showboat*** (2003), and Mickey Mouse (2004).

The "limited time" duration of copyright was instrumental in ensuring that the law promoted the creation of new works, rather than solely the extraction of profits from content. The duration of a copyright guarantee has increased over time (see chart). A 1709 British law set copyright for 14 years. The first US law (adopted in 1790) allowed rightsholders to renew for an additional 14 years. In 1909, copyright was granted for 28 years and renewable for another 28 years. The 1976 Copyright Act increased the term to 75 years, and the 1998 Millenium Copyright Act increased the term still further -- to 95 years for corporations and 70 years after death for individuals.

Year	Copyright Duration
1709 (British)	14 years
1790 (US)	14 years + 14 year renewal
1909 (US)	28 years + 28 year renewal
1976 (US)	75 years (corporate) life + 50 years (individual)

This lengthening of copyright duration flies in the face of the Constitutional limitation on copyright which granted Congress the right to institute copyright protections, but only for *limited times*, and as such is being challenged in the courts by a group of law professors (citation). The Constitutionally mandated goal of copyright is to encourage the production of new works, both by guaranteeing creators some exclusivity for a limited time, and by making sure that there is a robust public domain of copyright-free material that creators can draw on and incorporate into new works. It is absurd to think that 75 or 95 years is a "limited time", and even more absurd to rationalize that exclusive rights lasting beyond one's lifetime would provide incentives that would encourage a creator to create more works.

In a February 1998 editorial, *The New York Times* (itself a major content-holder that benefits from strong copyright legislation) strongly criticized proposed extensions of copyright duration.

...Supporters of this bill, mainly the film industry, music publishers and heirs who already enjoy copyright revenues, argue that extending copyright will improve the balance of trade, compensate for lengthening life spans and make American protections consonant with European practice. But no matter how the supporters of this bill frame their arguments, they have only one thing in mind: continuing to profit from copyright by changing the agreement under which it was obtained.

There is no justification for extending the copyright term. Senator Orrin Hatch argues that the purpose of copyright is "spurring creativity and protecting authors." That is correct, and the current limits do just that. The proposed extension edges toward perpetual patrimony for the descendants, blood or corporate, of creative artists. That is decidedly not the purpose of copyright.

Copyright protects an author by granting him the right to profit from his own work. But copyright also protects the pubic interest by insuring that one day the right to use any work will return to the public. When Senator Hatch laments that George Gershwin's "Rhapsody in Blue" will soon "fall into the public domain," he makes the public domain sound like a dark abyss where songs go, never to be heard again. In fact, when a work enters the public domain it means the public can afford to use it freely, to give it new currency.

...[T]he works in the public domain, which means nearly every work of any kind produced before the early 1920's, are an essential part of every artist's sustenance, of every person's sustenance. So far Congress has heard no representatives of the public domain. It has apparently forgotten that its own members are meant to be those representatives. (NY Times, February 21, 1998 editorial)

Lengthening of copyright duration is particularly onerous in the context of other attempts to assert copyright over material either already in the public domain or about to enter it. Corbis Corporation (a digital image stockhouse wholely owned by Bill Gates) contends that when they digitize an image of an art work or photograph, their digitization creates a new copyright which will persist for the duration of copyright protection beginning with the date of digitization. If their contention that digitization is a substantial creative act is upheld by the courts, it will mean that the digital version of works already in the public domain will remain under copyright protection for an additional 95 years. A similar rationale may be followed in pending database treaty legislation, which is likely to extend effective monopoly control for an additional 95 years to a compiler every time they add a new work to their compilation.

Control of Downstream Use (Licensing & other mechanisms)
The *first sale* doctrine has played a critical in creative criticism and other forms of free speech, and Content Industry attempts to eliminate *first sale* could create a very different world than the one we're used to living in. A key aspect of *first sale* has prevented the rightsholder of intellectual property from completely controlling who has access to it and how it is used. Though a publisher, newspaper, or Hollywood studio in the analog world might limit the audience for an initial set of sales, someone buying the work could turn around and sell it to anyone else. But in proposed digital age legislation, the purchaser of a work could not legally sell it or give it away without permission from the rightsholder. In a world without *first sale*:
- publishers could refuse to distribute to unfriendly critics
- organizations could prevent gadflies or consumer groups from viewing documents that might be used to paint them in unflattering terms
- authors could prevent known satirists from getting copies of their works
- libraries would not be able to lend works
- used bookstore and used recording stores couldn't operate without obtaining rightsholder permission before each purchase

The Content Industry is serious about controlling all downstream use of a work. According to Peter Chernin, President of News Corp (owner of Fox, Harper-Collins, and other content industry companies), his organization is advocating legislation that "guarantees publishers' control of not only the integrity of an original work, but of the extent and duration of users' access to that work, the availability of data about the work and restrictions on forwarding the work to others" (quoted in Publishers Weekly, May 2001)

Until such legislation passes, content industry strategy has been focused on making users "license" content instead of "buy" it. For the past decade, most publishers have applied this strategy in the library world, refusing to sell them material in digital form. Instead, they require libraries to

license this material. Licenses are contractual arrangements, and publishers claim that rights such as *fair use* do not apply to these arrangements.

Under licensing schemes, material is leased rather than bought outright. This raises a myriad of concerns for libraries. Licenses are only for a limited number of years, and at the end of that period license fees may be raised drastically or, if the market isn't large enough, the material may be eliminated altogether. The licensor may eliminate particular items for economic reasons or because they are controversial, making it very difficult for a library to build collections or to maintain a historical record of the resources they have made available. In a recent example, in the wake of the Tasini case (see below), the New York Times threatened to eliminate freelance articles from the databases they sell, rendering these incomplete records of that newspaper's publication.

Site licenses of digital works of art can cause particular problems for faculty and students who build curricular or creative materials that incorporate these works. Faculty and students are hesitant to spend the extensive time needed to create new digital materials incorporating licensed digital images unless they can be sure that the campus license (and each individual image that was originally part of it) will continue in perpetuity, and that they can take their creations with them when they leave the campus. Faculty sabbaticals at another campus, faculty or students taking positions elsewhere, or even showing a portfolio to a potential employer would all be prohibited by most licensing agreements. This is a central problem to any type of licensing agreement; if a licensor did in fact choose to offer guarantees of continuity, that licensor would run the risk of a university deciding to cancel their license payments yet still maintain the continuity of access.

Licensing material in digital form can also raise privacy concerns. A recent trend in university licensing of digital material is for members of the university community to access that material directly from a central site maintained by the publisher, rather than from a local site mounted by the university. This type of architecture requires that each individual be identified to the publisher as a valid member of the licensed university community. This approach carries the potential for dangerous violations of the privacy that university researchers have come to expect. Libraries carefully guard circulation information, and many purposely destroy all but aggregate statistics to avoid having to respond to law enforcement agencies seeking an individual's reading habits. It is extremely unlikely that publishers will provide this kind of privacy protection. Today a large number of websites monitor the browsing that goes on at their site, tracking who is looking at what, how often, and for how long. A whole industry has emerged that purchases this kind of personal marketing information from site managers and resells it. In difficult financial

times, even licensors who are committed to privacy concerns may find the temptation of payment for this kind of information difficult to resist.

Another key concern for libraries is the way in which licensing digital information will affect interlibrary loans (ILL). Due to consolidation in the publication industry, scholarly journal subscription costs have skyrocketed in recent years (Guernsey, Case, McCabe, Wyly).[3] The only way that libraries have been able to respond to this is by developing cooperative purchasing agreements with other nearby libraries.[4] But most licensing agreements for journals in electronic form prohibit ILL or any other form of access outside the immediate user community. Licensing has the potential of not only destroying libraries' recent response to the crisis of the rising cost of serials, but it may also destroy their historic cooperative lending practices. Libraries, which have traditionally cooperated to guarantee that users of even the poorest library could employ ILL to borrow materials that their library could not afford to purchase, are likely to find themselves prohibited by licensing agreements from engaging in ILL.

The vast expansion of the duration of the copyright monopoly, coupled with the proposed elimination of *fair use* and *first sale* for digital material will gut much of copyright's ability to promote the public interest, turning it into a vehicle that guarantees economic rights to copyright holders. This would continue a trend to increasingly favoring rightsholders over consumers and the public good.

Intellectual Property Law Used to Suppress Creativity and Free Speech
The increasing use of licensing schemes to avoid domains (like fair use) where the public good must be taken into consideration is part of a larger recent trend where commercial transactions take precedent over what used to be regarded as public rights or part of the public good.

In recent years, libel laws have been used to try to suppress criticisms that have been traditionally protected by free speech. These lawsuits, filed by corporate entities against individuals who have criticized them, have laid the burden of proof upon the defendants, forcing them to prove that all their criticisms were true. In 1998 Oprah Winfrey won an expensive court battle defending herself against a $12 million lawsuit. The lawsuit, filed by the cattle industry under a recent food disparagement law , challenged statements Oprah made on her television talk show about the health of eating beef.[5] According to the New York Times, "critics say that they [recent food disparagement laws] are a serious infringement on free-speech protections and are driven by business interests intent on silencing journalists and others who question the safety of the American food supply"(Verhovek). In a similar case in Britain, McDonalds sued activists from London Greenpeace who had created a leaflet urging consumers to boycott McDonalds for a host of reasons (ranging from health to working conditions to the effects of cattle raising practices on tropical

rainforests). In this long-running "McLibel" case, the defendants were forced to prove each of the accusations they had made in their leaflet (Vidal).[6]

Many groups within our society use the threat of intellectual property infringement litigation to avoid criticism or suppress works that they disapprove of. As many of the cases listed below show, limitations to the *fair use* defense against copyright infringement can result in the elimination of parody and satire, the curtailment of free speech, or the suppression of creativity, particularly in the form of new artistic styles:

- In Spring 2001, the estate of Margaret Mitchell succeeded in halting publication of Alice Randall's novel that satirized the racism and sexism in *Gone with the Wind*. Mitchell's estate claimed that *The Wind Done Gone* infringed on their copyrighted story and characters. Though an appeals court overruled the lower court and permitted publication, in the future we are likely to see an increase in the use of copyright law as prior restraint against critical works (Strothman).

- In Fall 1996 webmasters of fan sites for *Star Trek* began receiving letters from a Viacom/Paramount attorney charging copyright and trademark infringement. The letters demanded that all such material be removed immediately, including photographs, sound files, excerpts from books, and even "artistic renditions of Star Trek characters or other properties" (Levitt). A few months later it was revealed that Viacom/Paramount was preparing to make their own Star Trek website public, and used the threat of intellectual property litigation to remove any competition or confusion ahead of time (Granick, Ward). This litigation threat had an additional chilling effect on free speech: a request by the Star Trek Usenet Discussion group (rec.arts.sf.starwars) to create a new subgroup dedicated to fan fiction was vetoed (Granick) because Paramount's litigation had claimed that fictional accounts using Star Trek characters or settings were violations of their intellectual property (Ward).

- In 1999 eToys, a toy distributor, sued the artist group eToy accusing them of trademark infringement, trademark dilution and unfair competition for using the internet domain name etoy.com for their satiric website. Even though the artists had used the etoy name before the toy distributor even existed, a Los Angeles Superior Court judge granted a preliminary injunction against the artists, and under threats of $10,000/day fines, the artists stopped using the domain name (Mirapaul 1999). Only after an extensive protest campaign by artists and free speech advocates (as well as some guerilla direct-action tactics) did the toy company drop their lawsuit (Mirapaul 2000).

- In the late 1980s artist Jeff Koons created a wooden sculpture of a couple holding a large number of puppies in their arms. Photographer Art

Rogers, who had taken a photograph of a couple holding puppies in their arms and was marketing it as a postcard, sued Koons for copyright infringement. Koons claimed that his work was parody and that most art was derivative in similar ways. The courts ruled against Koons (reaching as high as a June 1992 decision of the US District Court of Appeals), and ordered him to pay a large financial settlement to Rogers.

- In the late 1960s satirical cartoonist Dan O'Neill created a mouse which he used as a minor character in an underground comic book that satirized a detestable corporate America. Walt Disney Productions sued O'Neill and his publisher for copyright infringement. In a series of cases and appeals that nearly ruined O'Neill financially, the courts ruled that publication of a comic including the mouse was a violation of Disney's copyright (Walt Disney Productions vs The Air Pirates). The rulings in this case raises disturbing issues about copyright infringement being used to inhibit an artist from engaging in satire or parody of a cultural icon.

- In 1998, a French AIDS awareness advertising campaign withdrew two ads under threat of suit by Walt Disney Inc. One ad featured Snow White in suspenders and fishnet stockings and the other featured Cinderella in a seductive pose (Disney Pressure Halts French AIDS Ad Campaign). Disney contended that these ads constituted copyright infringement, and the mere threat of litigation caused the AIDS awareness group to pull their ads. This incident is interesting both because it did not require actual litigation (the mere threat of litigation assured compliance) and because the characters Snow White and Cinderella were not created by Disney, and were folklore characters for hundreds of years before the Disney company was even formed.

- In 1990 the estate of Roy Orbison sued the rap group *2 Live Crew* for copyright infringement because they used "sampling" of Orbison's original song in their parody of "Pretty Woman". Though the Federal District Court supported 2 Live Crew's claim that parody was a fair use, in 1992 the Court of Appeals for the Sixth Circuit reversed the decision, contending that fair use did not come into play because the parody song had commercial character. This was a disturbing decision that would severely limit most rap group "sampling" and any kind of parody that might be sold for a profit. Luckily, in 1994 the Supreme Court overruled the appeals court and held that their parody was fair use (Luther R. Campbell et al. vs Acuff-Rose Music, Inc.).

- In 1991 the band *Negativland* released a single parodying radio disk jockey Casey Kasem and the group ***U-2***'s song "I Still Haven't Found What I'm Looking For". Almost immediately U2's distributor (Island Records) and publisher (Warner/Chappell) went to court charging copyright infringement. After only 2 weeks, all recordings were pulled from the shelves, and the recording has never made it back into music stores. The several years of ensuing litigation almost bankrupted Negativland members. But the band,

which had a history of cultural satire, continued to adamantly defend the social importance of artistic appropriation such as sampling. "Throughout our various mass media, we now find many artists who work by 'selecting' existing cultural material to collage with, to create with, and to comment upon. ... The psychology of art has always favored fragmentary 'theft' in a way that does not engender a 'loss' to the owner. Call this 'being influenced' if you want to sound legitimate". (Negativland, page 154).

- In the 1990s the Church of Scientology won significant monetary damages in a series of lawsuits against a number of former church members who had posted criticisms of the Church to newsgroups or on their websites. The Church's Religious Technology Center monitors the Internet to find postings that include portions of the church's writings, then files suits against the posters and Internet Service Providers (ISPs) claiming that posting writings of the church constitutes copyright infringement. Threatened litigation against ISP Netcom led Netcom to adopt a new policy forbidding any posting of copyrighted material anywhere on their site, and allowing them to act quickly to remove any material when copyright challenges arise. The results of such a policy means that any rightsholder can get the ISP to remove material that they don't like, even if the poster of the material believes that posting constitutes fair use (Espe).

- In 1996 the American Society of Composers, Authors and Publishers (ASCAP) told the Girl Scouts of the USA that scout camps must start paying a licensing fee to sing any of the 4 million copyrighted songs that ASCAP controlled (Walker and Fagan). This included girl scout staples such as "Happy Birthday". Many camps went songless for months, until newspaper and talk show attention generated enough outrage that ASCAP was forced to say that they had no intention of prosecuting girl scout camps for violations of singing songs around the campfire. But in backing down, ASCAP still insisted that they still might prosecute camps for playing background music without a license. Though most citizens would bristle at ASCAP's attempts to charge the girl scouts, as a copyright holder the law is on their side, and the girl scouts' only defense would be *fair use* (but only as long as *fair use* remains a defense).

The cases listed above all transpired under previous versions of copyright law. Current legislation which would further limit or eliminate fair use carries with it the danger of limiting free speech, curtailing satire and parody, and suppressing new art forms to an even greater degree than existed when the above battles took place. The discourse over copyright legislation is dominated by discussion of "economic harm" that will come to the content industry if action is not taken. The harm to the public good that will come from further limitations on fair use is treated merely as a minor side-effect. As Negativland wrote in a 1993 issue of Billboard:

The prevailing assumption - that our culture, and all its cultural

artifacts, should be privately controlled and locked away from any and all further creative uses by the audience they are directed at - is both undesirable and unworkable. Uninvited appropriation is inevitable when a population bombarded with electronic media meets the hardware that encourages people to capture those media. However, laws devised to protect the "ownership" of transmittable information have, for example, resulted in a music industry in which the very **idea** of a collage is a dangerous one, and artists inspired by "direct reference" forms of creation do not have the "right" to decide what their own art will consist of. Has it occurred to anyone that the private ownership of mass culture is a bit of a contradiction in terms? (Negativland, p 154)

Creators and Users: Common Interests

The content industry perpetuates the myth that they speak for the creators. At conferences and in debates, these consolidator representatives repeatedly claim that they are advocating strong copyright monopoly control in order to protect authors, recording artists, and filmmakers. But they seldom make this claim when members of the creative communities they claim to represent are present. Courtney Love echoes the sentiments of even successful music performers when she contends that musicians play the role of sharecroppers to the recording industry's plantation owners (Love 2000). And the New York Times decision to pull freelance authors' articles from their database after losing a Supreme Court case (Tasini vs NY Times) shows that the content industry does not have authors' interest in mind, and is only interested in maximizing their own profits.

The content industry is also no friend of libraries. Association of American Publishers (AAP) spokeswoman Judith Platt has been quoted criticizing librarians for wanting to share content, and calling them radicals "like the Ruby Ridge or Waco types" (ZDNet News, July 12, 2001). AAP President/Director Pat Schroeder's reaction to librarians was featured in a Washington Post article (Feb 7, 2001): " Publishers and librarians are squaring off for a battle royal over the way electronic books and journals are lent out from libraries and over what constitutes fair use of written material… Grossly oversimplified: Publishers want to charge people to read material; librarians want to give it away. … 'We,' says Schroeder, 'have a very serious issue with librarians.'"

While the interests of the content industry are very different than that of creators or of librarians or of users, the latter groups have much in common. Creators, librarians, and users all make good use of content created by others. They all want the widest possible distribution of content. They benefit from moves away from perpetual "locking up" of content. And they all have interest in works persisting over long periods of time. In this sense they are major allies who could benefit from working together in an alliance to promote the proliferation of content.

An example of such an alliance developed in the struggle over the Tasini vs. NY Times court case. This case came about when freelance authors sued

the newspaper because it sold the content from back issues to database vendors (such as Nexis) without getting permission from the freelancers. In June 2001 the Supreme Court ruled that publishers had violated the freelancers' copyright and suggested remedies like negotiating blanket agreements with author groups like the National Writers Union (which had brought the suit). Instead, the newspaper decided to pull all freelancer articles from their database vendors, affecting the historical record of the "newspaper of record. During the court proceedings, most of the library community aligned itself with the writers, echoing their sentiment that they should be justly compensated, and that the increasing control asserted by consolidators needed to be tempered. And since the court decision, both writers and librarians have vociferously denounced the Times decision to pull articles as being a costly power-play, bad public policy, destructive of the historical record, and resembling the schoolyard bully who won't let anyone else play with the ball if he can't have his way" (Besser 2001). The network of mutual support between librarians and creators to oppose content industry power-grabs can serve as a model for future struggles.

Conclusion

Having a robust information commons to draw upon is critical for creativity and for the creation of new and works. The key copyright concepts that have nurtured that information commons (a rich *public domain*, *fair use*, and *first sale*) are deeply intertwined with a value system that emphasizes access to information over privatization of information. These concepts promote democratic values such as political critique and satire, equal access to information for education, and the diversity of creativity that comes from letting less powerful societal voices develop new art forms that comment upon older ones.

In recent years we have seen a veritable assault on the *public domain*, *fair use* and *first sale* - from bullying threats of litigation, to court cases, to harsh legislation. The content industry is not only trying to reshape copyright from a public good into an unlimited economic right, but they are even trying to expand their rights into new arenas where these can be used to suppress criticism.[7]

The content industry has complained vociferously about potential economic harm, yet their assertions run counter to a variety of examples which raise questions as to whether they will be harmed economically: The Netherlands has a much more liberal policy than fair use, allowing individuals unlimited reproduction of copyrighted material for their own private use; and the content industry still operates profitably within the Netherlands. As the effects from the Betamax court case show, technological changes initially perceived as economically threatening can lead to the discovery of new economic models involving income streams that exceed the ones previously "threatened". And as the software industry has shown, lowering prices not only provides a great deterrence to copyright infringement, but

can open up new markets of potential customers.

In the wake of the content industry assault, a number of groups are struggling to maintain an information commons (Besser Commons). These include the Center for the Public Domain (http://www.centerforthepublicdomain.org/) and the Knowledge Conservancy (http://yen.ecom.cmu.edu/kc/). Additional groups, such as the Digital Future Coalition (http://www.dfc.org/) are deeply involved in the pragmatic struggles to maintain access to content.

If these groups are not successful, we will continue on the same trajectory. Accompanying our shrinking information commons will be increased control over social/political commentary and satire, as well as rightsholders' increased control over the creation of new derivative works and recombinant works. We will continue to see the criminalization of acts that might possibly impede digital commerce.[8] The result will be the creation of fewer and fewer derivative works like *West Side Story, The Wind Done Gone*, and rap music, and far less experimentation and exploration. Fewer challenging voices will be heard, and public discourse will be curtailed. A likely companion to the tight control over pre-existing content is the 1984-ish vision of controlling access to our common history.

But the most devastating impact from these recent changes is the likely transformation of information into a consumer product. There has always been a distinct set of differences between information and commodities. (For example, if I sell or give someone a toy, I no longer have it; but if I sell or give them information I still retain it.) The law has recognized this difference by treating intellectual property differently than tangible property; even when granting a copyright monopoly, the law has mandated *fair use* and *first sale* as limits to that monopoly. As the law is changing to eliminate the public good aspects of intellectual property, we are seeing a rapid increase in the commodification of information. The area of authorship and creativity will increasingly resemble the world of consumer products - intellectual property will become more bland and corporate controlled. Most individuals will find it more and more difficult to become a creator, and will settle for being merely a consumer. And diverse voices will be more and more marginalized. As Negativland wrote in the Epilogue to their book, "We are suggesting that our modern surrender of the age-old concept of shared culture to the exclusive interests of private owners has relegated our population to spectator status and transformed our culture into an economic commodity." (Negativland, p 190)

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Notes

1 Felsenstein, the founder of the 1970s "Home-Brewed Computer Club" and effectively the father of the personal computer movement, wrote this piece even before the rise of the WorldWide Web.

2 This is quite parallel to the US Justice Department's claims in their anti-monopoly lawsuit against Microsoft.

3 According to the Association of Research Libraries, costs have risen an average of 9.5% per year over the past decade (Case).

4 Effectively, other libraries would help pay the cost of one library's journal subscription in exchange for their users being able to order that library's journal copies through ILL.

5 At the time of the lawsuit, 13 states had passed similar food disparagement laws.

6 The litigation dragged on for almost 10 years. The 2.5 years of actual court proceedings made it the longest court case in British history.
7 It is quite ironic that an industry based upon intellectual property has sought to use copyright law to censor voices they don't agree with.
8 We have already seen the jailing of Dmitri Skylar for giving a conference talk about security holes he found in electronic book software, and the threats made against Princeton Professor Edward Felten over him taking up the RIAA's challenge to try to crack the Secure Digital Music Iniative encryption (Markoff 2001). It is only a matter of time before a librarian is arrested for disabling encryption to perform a perfectly legal act (like *fair use* access or library preservation).

Source:
http://www.info-commons.org/arch/1/besser.html

Das Urheberrecht vom Kopf auf die Füße stellen
Hearing zur Umsetzung der EU-Urheberrechtsrichtline
von Volker Grassmuck für Telepolis, 12.01.2002

[12/2001] Im Juni hatte die EU die Richtlinie über Urheberrechte in der Informationsgesellschaft verabschiedet, die nun ins deutsche Urhebergesetz übersetzt werden muß. Dazu fand am 27.11. eine parlamentarische Anhörung statt, bei der die üblichen Verdächtigen den Ton angaben, die Rechteindustrie und die Verwertungsgesellschaften. Um den Zuständigen im Justizministerium auch die Position von deren Gegenspielern, der Öffentlichkeit zu Gehör zu bringen, luden Vertreter der Bibliotheken und andere an einem freien Informationsfluß Interessierte am 30.11. zu einem weiteren Hearing im Berliner Rathaus. Ergebnis: Den Interessenausgleich des Urheberrechts sahen die meisten Teilnehmer in der Richtlinie als gescheitert an. Die Bundesregierung wurde aufgefordert, die von der Richtlinie erlaubten, aber nicht vorgeschriebenen Schrankenbestimmungen voll auszuschöpfen und alles in ihrer Macht Stehende zu tun, um eine offene, partizipatorische Wissenskultur zu fördern.[1]

Im Cyberspace werde alles anders, sagen die einen. Eigentlich bleibe, mit einigen Anpassungen, alles wie es war, so sehen es die Medienkonzerne, die für den Schutz ihrer Wissenswaren in erster Linie auf private Regulierung durch Lizenzverträge und Rechtekontrolltechnologien setzen. Doch auch sie fordern eine rechtliche Anpassung an die verlustfreie Kopierbarkeit digitaler Waren und ihre instantane globale Übertragbarkeit durch das Internet. Der zunehmende grenzüberschreitende Verkehr geschützter Werke brachte bereits in der zweiten Hälfte des 19. Jahrhunderts multilaterale Abkommen wie die Berner Übereinkunft hervor. Heute ist dafür die Weltorganisation für Geistiges Eigentum (WIPO) zuständig. 1996 verabschiedete sie mit dem Votum von 127 Staaten zwei Verträge, um das Urheberrecht in das digitale Zeitalter zu bringen, den WIPO Urheberrechtsvertrag und den WIPO Vertrag über die Leistungen der ausübenden Künstler und der Tonträgerhersteller). Die Staaten haben sich damit verpflichtet, ihre nationalen Gesetz an die WIPO-Verträge anzupassen. Einige haben das bereits getan, so die USA mit dem Digital Millennium Copyright Act (DMCA) von 1998. Großbritannien paßte seinen Copyright, Designs and Patents Act (CDPA) im Februar 2000 an.

Europa befindet sich auf dem Weg zur Harmonisierung des Binnenmarktes und mußte zunächst einen gemeinsamen Rahmen für die einzelnen nationalen Gesetzgebungen finden. Da das kontinentaleuropäische Urheberrecht die Schranken zugunsten der Öffentlichkeit stärker faßt als das angloamerikanische Copyright, tat sich der europäische Gesetzgeber damit schwerer. Nach langem Ringen wurde im Juni 2001 die "Richtlinie zur Harmonisierung bestimmter Aspekte des Urheberrechts und der Verwandten Schutzrechte in der Informationsgesellschaft" verabschiedet, die die

europäischen Mitgliedsstaaten nun bis Dezember 2002 in ihrem nationalen Recht umsetzen müssen.

Aus diesem Anlaß fand am 30.11.2001 im Berliner Rathaus unter dem Titel "Wert der Information: Ware oder öffentliches Gut?" eine Anhörung statt. Ausgerichtet wurde sie von der Bundesvereinigung Deutscher Bibliotheksverbände, der Deutschen Gesellschaft für Informationswissenschaft und Informationspraxis, der Heinrich-Böll-Stiftung und dem Deutschen Bibliotheksinstitut.

In seinem Eingangsstatement erläuterte der zuständige Ministerialdirektor im Bundesjustizministerium Elmar Hucko die Rolle seines Ministeriums als Mediator. Es müsse dafür sorgen, dass sich das junge Urheberrecht im Zeitalter der Neuen Medien nicht verflüssigt. "Aber andererseits haben wir auch ein Problem, dass sich das Urheberrecht in bestimmten Bereichen nicht so verfestigt, dass man vor lauter Urheberrecht nicht mehr an Informationen herankommt." Wie sich schon an anderen Beispielen zeigte, hat Bundesjustizministerin Herta Däubler-Gmelin die Interessen der Urheber und der Öffentlichkeit zur Chefsache gemacht. Hucko: "Wir stehen zu dem Wort der Ministerin, die gesagt hat 'die Bibliotheken und der Zugang zu Information sind uns wichtig. Darauf beruht unser gesamtes Staatswesen und unsere Verfassung. Darauf beruht auch der Wissenschaftsstandort Deutschland, dass wir an Informationen zu vernüftigen Preisen herankommen.' Soviel ist klar, aber wie das im Einzelnen machbar ist, dazu wollen wir hier etwas lernen."

Die Werte stehen kopf

Das Hearing im Berliner Rathaus lieferte dazu eine Reihe konkreter Vorschläge. Es macht jedoch auch deutlich, dass die EU-Richtlinie Regelungen vorgibt, die die Interessen der Verwertungsindustrie favorisieren. Rainer Kuhlen, Bibliothekswissenschaftler an der Universität Konstanz und Vorsitzender des Ausschusses für Kommunikation und Information der UNESCO, sprach in seinem Vortrag von einer Umkehrung der bisherigen Wertehierarchie. "Ursprünglich haben systematisch und historisch dem Urheberrecht wie dem Copyright öffentliche Interessen zugrunde gelegen. Schutzwürdig sind die individuellen und ökonomischen Ansprüche an Wissen und Information letztlich nur aus dem öffentlichen Interesse an ihrer uneingeschränkten öffentlichen Nutzung. Faktisch werden [in der EU-Richtlinie] jedoch die Verwertunsansprüche an die Spitze der Hierarchie gestellt und die Ausnahmen -- wenn es sie angesichts der Kontrollmöglichkeiten durch technische Maßnahmen überhaupt noch geben soll -- nur quasi zähneknirschend akzeptiert." Auch ICANN-Direktor und CCC-Sprecher Andy Müller-Maguhn sprach von einem Paradigmenwechsel durch die Richtlinie. Einen Interessenausgleich zwischen den Urhebern und Verwertern auf der einen Seite und den gesellschaftlichen Ansprüchen auf der anderen sieht er hier nicht gegeben. In diesem Gesetzesrahmen drücke sich ein Übergewicht der Industrie aus, obwohl er doch von einem Parlament kommt, von dem man meinen könne, dass es auch öffentliche Interessen

berücksichtige.

Das Konzept der Balance im bisherigen Autoren- und Copyright-Recht, auf das die beiden anspielten, schützt zum einen die Autoren gegen unautorisierte Verwertungen ihrer Werke durch Dritte. Zum anderen schränkt es deren Verfügungsgewalt im Sinne einer Sozialbindung auch des geistigen Eigentums ein. In der zweiten Waagschale liegen somit die Ansprüche der Allgemeinheit an den Schutzgegenständen. Die beiden Seiten des Gleichgewichts, das es unter sich wandelnden medientechnologischen Bedingungen immer wieder neu zu erzielen gilt, finden sich in vielen Rechtsquellen. Die Allgemeine Menschenrechtserklärung der Vereinten Nationen umreißt sie in Artikel 27 wie folgt: "(1) Jeder hat das Recht, am kulturellen Leben der Gemeinschaft frei teilzunehmen, sich an den Künsten zu erfreuen und am wissenschaftlichen Fortschritt und dessen Errungenschaften teilzuhaben. (2) Jeder hat das Recht auf Schutz der geistigen und materiellen Interessen, die ihm als Urheber von Werken der Wissenschaft, Literatur oder Kunst erwachsen." Im Grundgesetz der Bundesrepublik Deutschland sind die beiden Seiten in den Artikeln 5 (Informationsfreiheit) und 14 (Schutz des Eigentums) formuliert.

Faktisch ist es jedoch eine dritte Gruppe von Akteuren, die die praktische und auch die rechtliche Entwicklung der Wissensordnung dominiert: die so genannte Rechteverwertungsindustrie. Ihnen gesteht das Gesetz für ihre Investitionen etwa in die Herstellung von CDs oder Online-Angeboten originär nur abgeleitete Leistungsschutzrechte zu. Der Medienmarkt ist hochgradig konzentriert. Globale Unternehmen wie Disney, Bertelsmann und Sony integrieren alle sich bietenden Verwertungsketten, um ihre Marktmacht auszuweiten. Der Karlsruher Wissensphilosoph Helmut Spinner hat für sie den treffenden Begriff "Datenherren" geprägt. Von einer Parität zwischen ihnen und den individuellen Autoren einerseits und der Öffentlichkeit andererseits kann somit keine Rede sein. Dem Gesetzgeber kommt daher die Aufgabe zu, in der Aushandlung der Balance die Interessen der faktisch schwächeren Akteure zu schützen. Das Berliner Hearing machte deutlich, dass die EU-Richtlinie dieser Aufgabe nur unzulänglich nachgekommen ist. Doch bietet sie einigen Spielraum, dass zumindest die deutsche Umsetzung nicht so einseitig ausfällt, wie es die Richtlinie nahelegt.

Online-Zugänglichmachung als neues ausschließliches Recht

Die EU-Richlinie regelt nicht etwa den gesamen Geltungsbereich des Urheberrechts neu. Sie umfaßt vor allem drei Bereiche, die für den Cyberspace als zentral angesehen werden. Sie schafft ein neues exklusives Recht der Urheber auf "öffentliche Zugänglichmachung", sie behandelt die Schrankenbestimmungen für digitale Werke und sie etabliert einen neuen Schutz für technische Rechtekontrollsysteme.

Das auf dem Hearing als unkontrovers behandelte Recht der "öffentlichen Zugänglichmachung" (Art. 3 der Richtlinie) erweitert den Begriff der

Öffentlichkeit von einer Vielzahl, die ein Werk im Rundfunk gleichzeitig wahrnehmen kann, um ein Online-Angebot, bei dem Werke einzelnen "Mitgliedern der Öffentlichkeit von Orten und Zeiten ihrer Wahl zugänglich sind". Es legalisiert somit nur, was ohnehin gängige Praxis ist. Denn auch heute schon fordern Rechteinhaber z.B. regelmäßig und erfolgreich ISPs auf, nichtautorisierte MP3s auf ihren Servern zu löschen. Der Cyberspace ist in dieser Hinsicht also schon seit einigen Jahren kein rechtsfreier Raum. Positiv an dieser Klarstellung ist, dass sie der Praxis der Verleger, Werke aus den alten Medien mit zusätzlichen Profiten, aber ohne zusätzliche Vergütung der Autoren online anzubieten, endgültig ein Ende setzt. Im selben Sinne schreibt der so genannte Professorenentwurf eines Urhebervertragsrechts -- ein bereits weitgehend finalisierter Bestandteil der deutschen Gesetzesreform, auf den Hucko in seinem Eingangsstatement nicht ohne Stolz hinwies -- eine Beteiligung der Autoren an den kommerziellen Verwertungen ihrer Werke vor. Ob das gleiche jedoch für den privaten Tausch ohne Gewinnabsicht gilt, wie in Napster oder Gnutella, ist offen. Nach Auffassung einiger Juristen könnte hier die Schrankenregelung zum Tragen kommen, nach der eine öffentliche Wiedergabe von Werken im Rahmen einer Veranstaltung, die keinen kommerziellen Zwecken des Veranstalters dient und an der jeder kostenlos teilnehmen kann, nicht der Einwilligung der Rechteinhaber bedarf. Nach der Analyse von Till Kreutzer z.B. entfällt in solchen Tauschsystemen die Erlaubnis-, wenn auch nicht die Vergütungspflicht für die Verwertungshandlung.

Die Datenherren in ihre Schranken verweisen

Die im Artikel 5 der Richtlinie behandelten Schrankenbestimmungen stellten, wie gesagt, die größten Schwierigkeiten für eine zügige Beschlußfassung des europäischen Gesetzgebers dar. Da sie in einem direkten Abhängigkeitsverhältnis zum Schutz für technische Rechtkontrollsysteme stehen, ist hier kein Sowohl-als-Auch möglich. Die Kommission hatte in ihrem ersten Entwurf den Interessen der Öffentlichkeit den Vorrang eingeräumt, das europäische Parlament dagegen stellte sich auf die Seite der Verwerter, die die Nutzungsbedingungen möglichst schrankenlos mit Hilfe von Lizenzen und technischen Maßnahmen regulieren wollen (vgl. Axel Metzger, Die Privatkopie -- vom Aussterben bedroht, Telepolis, 24.7.01). Herausgekommen ist eine Selbstregulierungsauflage an die Industrie, auf die gleich noch näher eingegangen wird. Immerhin sind aus anfangs acht Schrankenbestimmungen in der Endfassung der Richtlinie 21 geworden. Sie mögen akribisch erscheinen, da die Richtlinie aber einen Maximalrahmen vorgibt, die Staaten also keine weiteren Schranken hinzufügen dürfen, können sie gar nicht ausführlich genug sein.

Vorgeschrieben ist nur eine einzige der Schrankenbestimmungen. Vorübergehende Kopien, die in Zwischenspeichern als integraler Teil eines technischen Verfahrens entstehen, und die "keine eigenständige wirtschaftliche Bedeutung haben", sind vom ausschließlichen Recht der Autoren auszunehmen (Art. 5 Abs. 1). Silke von Lewinski vom Max Planck Institut für ausländisches und internationales Urheberrecht München, die

den Einführungsvortrag auf dem Berliner Hearing hielt, warf jedoch die Frage auf, ob bei Kopien in einem Cache-Server, der die Zugriffszeiten auf Informationen senkt, nicht auch eine wirtschaftliche Bedeutung gegeben sei. Selbst hier ist somit eine Interpretation der Gerichte vorstellbar, die den ISPs eine Vergütungspflicht für diese technische Dienstleistung auferlegt. Alle anderen Ausnahmen sind fakultativ. Die europäischen Mitgliedsstaaten können entscheiden, ob und in welchem Umfang sie diese implementieren wollen. Dazu gehören die Privilegien für Wissenschaft und Bildung, für Presse und soziale Einrichtungen, die Vervielfältigung durch natürliche Personen zum privaten nichtkommerziellen Gebrauch und die Nutzungen in und durch Bibliotheken.

Hermann Leskien, Vertreter des Deutschen Bibliotheksverbandes und Generaldirektor der Bayrischen Staatsbibliothek, erinnerte zunächst daran, dass Bibliotheken nicht in einem partikularen Interesse handeln, sondern im Auftrag des Gemeinwohls. Das ist eine schlichte, aber viel zu wenig gewürdigte Tatsache, die im übrigen selbst von einigen Bibliothekaren angefochten wird. Einige unter ihnen sind der Ansicht, im digitalen Zeitalter müßten Bibliotheken wie Unternehmen betrieben werden, und reden einer Konkurrenz unter öffentlichen Bibliotheken das Wort und von ihren Nutzer nur als "Kunden". Leskien dagegen betonte, dass Bibliotheken eine der Grundsäulen der Informationsfreiheit darstellen, eine Tatsache, die hierzulande im Bewußtsein weniger verankert sei, als in den angelsächsischen und skandinavischen Ländern. "Im Grundgesetz ist niedergelegt, dass jeder sich aus allgemein zugänglichen Quellen ungehindert unterrichten können soll. Im Vollzug dieser Aufgabe agieren Bibliotheken, indem sie Informationen nach qualitativen Gesichtspunkten sammeln und erschließen, nach der jeweiligen Aufgabenstellung kooperieren und das gesamte Angebot unzensiert und in der ganzen Breite vorhalten."

Online-Bibliotheken verboten

Da das Grundgesetz keine Unterscheidung zwischen analogen und digitalen Medien vornimmt, darf man erwarten, dass das gleiche für den Zugang zu digitalen Werken zutrifft. Und tatsächlich sieht die Richtlinie in Art. 5 Abs 2c die Möglichkeit vor, Vervielfältigungshandlungen in öffentlich zugänglichen Bibliotheken, Bildungseinrichtungen, Museen und Archiven, die keinen wirtschaftlichen Zweck verfolgen, von der ausschließlichen Kontrolle der Rechteinhaber auszuschließen. Anfangs waren, wie von Lewinski erläuterte, hier nur Archiv- und Ersatzkopien vorgesehen. Im Verlauf der Verhandlungen wurde diese Schranke etwas weiter gefaßt. Kategorisch ausgeschlossen ist jedoch eine online-Ausleihe digitaler Werke (vgl. die vorangestellte Erwägung 40). Art. 5 Abs. 3n läßt allein die Möglichkeit zu, dass die genannten Einrichtungen für die Nutzung von digitalen Werken "durch ihre Wiedergabe oder Zugänglichmachung für einzelne Mitglieder der Öffentlichkeit zu Zwecken der Forschung und privaten Studien [] eigens hierfür eingerichtete Terminals in den Räumlichkeiten der genannten Einrichtungen" bereithalten. Diese Kopplung an einen Präsenzraum im

The Network Society of Control

Internetzeitalter des globalen Zugriffs auf Informationen scheint aberwitzig. Die EU-Richtlinie schickt die Bibliotheken mit einer Eisenkugel am Bein in die digitale Wissensordnung. Tilo Gerlach vom Deutschen Kulturrat, einer der wenigen Vertreter der Rechteindustrie auf dem Hearing, der sich nicht ohne Grund auf der falschen Veranstaltung wähnte, zeigte Verständnis dafür, dass Bibliotheks-"Kunden" von zuhause aus lesen wollten. In der Richtlinie fehle dafür jedoch jede Schranke. Im übrigen bezeichnete er dieses Anliegen als "anachronistisch".

Leskien sieht die Verhinderung des Fernzugriffs selbst durch eingeschriebene Nutzer als das größte Ärgernis in der Richtlinie. Für gedruckte Werke gibt es bereits das erfolgreiche Subito, einen Kopienlieferdienst der Bibliotheken. Hier kann jeder Zeitschriftensaufsätze oder Buchkapitel elektronisch bestellen und bekommt sie innerhalb von etwa 24 Stunden per eMail, Fax oder Fotokopie zugesandt. Die Kosten gliedern sich in drei Kategorien -- Studenten, Kultureinrichtungen usw., Privatnutzer und Firmennutzer -- und enthalten eine Vergütung an die VG Wort. Hier ist es also gelungen, eine Lösung auszuhandeln, mit der alle Akteure leidlich zufrieden sind. Während das Einscannen von Papiervorlagen legal möglich ist, verbietet die Richtlinie absurderweise den gleichen Lieferdienst für digitale Dokumente. Hier, so Leskien, "muß ich sagen 'Lieber Nutzer, Du wohnst zwar 20 km von hier auf dem Land, aber Du mußt zu uns in den Lesesaal kommen, um die digitale Kopie zu nutzen.' Ein völliger Nonsens, aber in sehr vielen Fällen ist es so geregelt."

Während sich Leskien mit seiner Forderung nach einem Fernzugriff unter kontrollieren Bedingungen für registrierte Nutzer mit einem Abbuchungskonto bereits in einem Rückzugsgefecht sieht, ging Kuhlen in seinem Vortrag darüber hinaus. Eine Beschränkung der Nutzung digitaler Werke in öffentlichen Bibliotheken, wie die auf registrierte Nutzer oder Präsenz-Terminals, hält er grundsätzlich für problematisch. In der Internet-Welt müssten auch Formen von online-Volltextbibliotheken und ihre Nutzung vom eigenen Rechner aus möglich sein. Er wies darauf hin, dass es nicht länger nur die Bibliotheken sind, die den Zugriff auf Informationen gewährleisten. So bieten akademische Einrichtungen Volltext-Server, und das Angebot werde sich zukünftig weiter vervielfältigen. "Auch hier müssen die technischen Maßnahmen verfeinert und an die Bedürfnisse der Wissenschaft angepaßt werden, die die direkte individuelle Nutzung ermöglichen und den Mißbrauch ausschließen."

Mit der Beschränkung auf Bibliotheksterminals nicht genug, gesteht die Richtlinie selbst diese Nutzung nur dann zu, wenn sich das betreffende Werk im Besitz der Einrichtung befindet, und nur dann, wenn ihr keine Lizenzbedingungen entgegenstehen. Eine Fernleihe aus anderen Bibliotheken in den Lesesaal der eigenen ist somit ebenfalls ausgeschlossen. Und die Rechteinhaber können eine Nutzung in der Bibliothek per vertraglicher Verfügung völlig verbieten. Mit der Vielzahl von Lizenzen haben die Bibliotheken bereits heute zu kämpfen. So berichtet Leskien, dass seine,

die Bayrische Staatsbibliothek Rechte für 4.000 elektronische Zeitschriften erworben habe. Dafür seien zwei Leute mit nichts anderem beschäftigt, als mit den Verlagen zu verhandeln, um die Lizenzen zu klären. Daraus werden dann Listen erstellt, was man mit der jeweiligen Zeitschrift machen darf: diese darf man nur in der Bibliothek einsehen, jene auch ausdrucken und in einigen Fällen sogar von zuhause aus darauf zugreifen. "Das ist natürlich kein Angebot und keine Informationsfreiheit. Hier, glaube ich, ist es sehr wichtig, die Errungenschaften aus der Print-Vergangenheit in die digitale Zukunft zu retten. Wenn jemand in den Lesesaal gegangen ist, dann hat er gewußt, er kann jedes Buch in die Hand nehmen, er kann daraus exzerpieren, er kann daraus in begrenzter Zahl kopieren. Dieses kann er nun auf einmal nicht mehr, sondern beim einen kann er dieses, beim anderen kann er jenes. Diese Verhältnisse zu klären, dient nicht nur der Bequemlichkeit der Bibliotheken, sondern ist auch für die Berechenbarkeit des Informationsflusses für den Nutzer von entscheidender Bedeutung. Aus dieser Warte resultiert ein ganz klares Votum: So viele Ausnahmetatbestände wie möglich gesetzlich festschreiben und sie nicht bilateralen Regelungen unterwerfen." Eine individuelle Lizenzaushandlung zwischen Rechteinhaber und Nutzer sei ohnehin nicht möglich, daher sieht Leskien in Normverträgen wie dem mit der VG Wort angestrebten Gesamtvertrag den einzig gangbaren Weg.

Dauerhafte Archivierung gefährdet

Schließlich sprach Leskien einen weiteren Aufgabenbereich der öffentlichen Bibliotheken an, der durch Rechtekontrollsysteme und ihren gesetzlichen Flankenschutz gefährdet wird. "Auf dem Sektor der veröffentlichten Information sind Bibliotheken die einzigen Akteure, die sich um die Langzeitverfügbarkeit über die Phase der Vermarktbarkeit hinaus kümmern." Er spielt darauf an, dass Verlage nicht einmal einen vollständigen Back-Katalog der von ihnen selbst verlegten Werke bewahren. Wenn dies schon bei Print-Werken nicht geschieht, ist bei digitalen Werken noch viel weniger damit zu rechnen. Sind es bei Büchern die Kosten für Lagerhaltung, die profitorientierte Unternehmen dazu bringen, sie zu vernichten, wenn sie kein Marktinteresse daran mehr sehen, ist der Aufwand einer dauerhaften elektronischen Archivierung erheblich größer. Eine CD oder eine Festplatte kann man nicht einfach ins Regal stellen und hoffen, sie 50 Jahre später ohne weiteres wieder lesen zu können. Vielmehr müssen die Daten in regelmäßigen Abständen kopiert werden, um dem Bitrott der physikalischen Träger zuvorzukommen. Und sie müssen regelmäßig in die aktuellen Dokumentenformate konvertiert werden, bevor der rasche Wechsel von Hard- und Softwaregenerationen sie ebenfalls unlesbar werden läßt. Beides sollen aber technische Schutzsysteme und ihr rechtliches Umgehungsverbot gerade verhindern. Leskien: "Das muß man sofort anpacken, damit man die notwendigen und unheimlich kostenaufwendigen Migrationsschritte sichern kann. Das müßte unbedingt ein vergütungsfrei zu konzipierender Vorgang sein."

Tatsächlich sind die wichtigsten Schrankenfreiheiten an die Bedingung geknüpft, dass die Rechteinhaber einen "gerechten Ausgleich" erhalten, die "Begünstigten" der Freiheit also, ähnlich wie für Kopiergeräte und Leermedien, auch z.B. für eine digitale Privatkopie einen festgelegten Betrag an die Verwertungsgesellschaften abführen. Viele Schranken sind darüberhinaus weiter eingeschränkt oder an Bedingungen gebunden. So kann die Schranke zugunsten der Presse "ausdrücklich vorbehalten", also durch eine Lizenz außer kraft gesetzt werden (Art. 5 Abs. 3c). Wie schon bei der Bibliotheksnutzung gibt die Richtline hier einer privatwirtschaftlichen Vertragslösung den Vorrang vor einer gesetzlichen Regulierung.

Schließlich werden alle Schrankenbestimmungen dem so genannten Drei-Stufen-Test unterworfen. Diese Rechtsdoktrin -- eine Art "Wirtschaftlichkeitsprüfung" der Informationsfreiheiten -- zieht sich seit Anfang des 20. Jahrhunderts durch das Copyright. Sie taucht im Revidierten Berner Abkommen, im TRIPS und in den WIPO-Verträgen auf und war der EU-Richtline somit vorgegeben. Dort heißt es im Art. 5 Abs. 5, sämtliche Ausnahmen und Beschränkungen (1) dürfen nur in bestimmten Sonderfällen angewandt werden, (2) sie dürfen die "normale Verwertung" nicht beeinträchtigen und (3) sie dürfen die "berechtigten Interessen des Rechtsinhabers nicht ungebührlich" verletzen. Dass das Recht auf die digitale Privatkopie nicht dazu führen darf, dass niemand mehr die Vertriebsstücke kauft, ist nachvollziehbar, doch Begriffe wie "normale Verwertung" und "ungebührliche Verletzung berechtigter Interessen" lassen einen großen Interpretationsspielraum zu, um die Wahrnehmung der Schrankenfreiheiten zu unterbinden.

Besonders empört waren einige der Hearings-Teilnehmer jedoch darüber, dass die Wissensfreiheiten nur als Ausnahmen von der Regel der Wissenskontrolle gelten. Und die erste Teststufe scheint sie noch weiter zu minimieren: darf etwa die Bibliotheksschranke nur "in bestimmten Sonderfällen" angewandt werden? Kuhlen forderte, dass die Ausnahmen von der kommerziellen Verwertung als das Prinzip der öffentlichen Nutzung anerkannt werden müßten. Auch Müller-Maguhn sieht es als Versäumnis schon des bisherigen Urheberrechts, dass das Recht auf Privatkopie nur als Ausnahme eines Verbots und nicht als positives Recht formuliert ist.

Selbst bei seiner eigentliche Aufgabe, einheitliche Bedingungen im europäischen Binnenmarkt zu schaffen, hat der europäische Gesetzgeber versagt. Indem er es den einzelnen Mitgliedsstaaten überlassen hat, Schrankenbestimmungen vorzusehen oder nicht, wird es hier nicht zu einer Harmonisierung kommen. Luzian Weisel von der Deutschen Gesellschaft für Informationswissenschaft und -Praxis, in der sowohl Informationsproduzenten und -Anbieter wie -Nutzer zusammengeschlossen sind, bedauerte dies auf dem Berliner Hearing. "Den Urhebern und Nutzern bleibt es demzufolge auch nach der Umsetzung der Richtlinie nicht erspart, sich im Detail mit den Fragen auseinanderzusetzen, welche Nutzung in welchem Mitgliedsstaat erlaubt ist und welche nicht." Es ist somit eine Situation abzusehen, in der Verlage

ihren Sitz in die Länder mit den schwächsten Schrankenbestimmungen verlegen.

Technische Selbsthilfe
Der dritte Bereich, den die EU-Richtlinie entsprechend den Vorgaben der WIPO-Verträge regelt, sind "technische Maßnahmen" für die Wahrnehmung von Rechten. Gemeint sind Rechtekontrollsysteme (RKS), auch als "Digital Rights Management" (DRM) bekannt, oder noch euphemistischer mit dem Begriff ihres Vordenkers vom Xerox PARC, Marc Stefik, als "Trusted Systems". Sie sollen suggerieren, dass sie das Vertrauen aller Beteiligter genießen und eine Verwaltung von geistigen Gütern leisten. Tatsächlich implementieren sie das tiefe Mißtrauen der Datenherren gegen alle anderen in der Verwertungskette, zuoberst gegen die Endnutzer. Sie alle werde als potentielle Diebe vorgestellt, die sich nicht an geschlossene Lizenzen halten, denen auch mit einer Drohung durch das Recht nicht beizukommen ist und denen es generell an einem Unrechtsbewußtsein in Bezug auf Urheberrechtsverstöße mangelt. RKSe sollen technisch alle anderen als die lizenzierte Nutzungen unmöglich machen.

RKSe sind weit mehr als schlichte Kopierschutzmechanismen. In ihrer Summe zielen sie auf nichts weniger als eine Umwälzung der gesamten Architektur des Cyberspace. Digitale Waren werden kryptografisch eingekapselt und mit Rechtekontrollinformation versehen. Jedes Gerät und jede Software, die Nutzungen vornehmen könnten, müssen mit Modulen versehen werden, die diese Information auslesen und befolgen. Dazu müssen alle beteiligten Industriezweige verpflichtet werden, diese Technologien zu lizenzieren und in ihre Produkte ú von CD-Brennern, Druckern, Festplatten, Scannern, über Viewer und Editoren bis hin zu Betriebssystemen -- einzubauen. In der Regel entwickeln Industriekonsortien diese Technologien und betreiben die zentralen Lizenzierungs- und Authentifizierungsinstanzen. Die Existenzberechtigung kompromittierter Geräte kann über eine "Revocation List" im Content widerrufen werden. Spezialisierte Suchmaschinen überwachen das Internet auf Wasserzeichen in Werken hin, die einem RKS entnommen worden sind. Nummernsysteme dienen der Identifikation von Werken und Rechteinhabern. Eine solche umfassende Infrastruktur soll eine punktgenaue Kontrolle möglich machen, wer ein Werk auf welchem Gerät, in welchem Teil der Erde, wie oft und auf welche Weise nutzt. So zumindest die Theorie. In der Praxis ist noch jedes RKS in kürzester Zeit geknackt worden. Jüngstes Beispiel ist das System der Secure Digital Music Initiative. Die SDMI war sich ihrer Sache so sicher, dass sie zu einem Hack-Wettbewerb einlud. Doch als Princton-Professor Edward Felten die Unwirksamkeit des verwendeten Wasserzeichenverfahrens nachwies, drohte sie ihm mit einer Klage wegen Verstoßes gegen ihr Copyright.

Folglich riefen die Datenherren doch wieder den Gesetzgeber auf den Plan, um ihrer technischen "Selbsthilfe" einen zusätzlichen gesetzlichen Flankenschutz zu gewähren. In der EU-Richtlinie heißt es in Art. 6 Abs. 1

kurz und bündig: "Die Mitgliedstaaten sehen einen angemessenen Rechtsschutz gegen die Umgehung wirksamer technischer Maßnahmen [] vor." Im Gegensatz zu den Schrankenregelungen ist die Einführung des Umgehungsverbots für die Staaten der Gemeinschaft also verpflichtend. Absatz 2 führt eine Liste weiterer zu verbietender Handlungen an, die einer Umgehung dienen können. Darunter fällt absehbar auch eine kritische akademische Auseinandersetzung mit diesen Technologien. Kuhlen sieht darin eine nicht akzeptierbare Einschränkung von Wissenschaftsfreiheit. "Es muß weiter möglich sein -- und letztlich liegt das auch im Interesse der Rechteinhaber, die solche technischen Maßnahmen einsetzen -- darüber zu forschen und in Publikationen auch auf Defizite hinzuweisen, aufgrund deren Kenntnisse der Schutz durch diese technischen Maßnahmen außer kraft gesetzt werden kann. Wenn Sie das jetzt tun, und es gibt diese Fälle in den USA bereits, werden Sie ins Gefängnis gesteckt." Der deutsche Gesetzgeber, so Kuhlen, solle darauf achten, dass Forschung auf diesem Gebiet nicht kriminalisiert wird.

Der Größte Feind der Datenherren ist die Turingsche Universalmaschine. Jede Verschlüsslung oder sonstige Manipulation, die mit einem Computer vorgenommen wurde, kann mit einem Computer auch wieder rückgängig gemacht werden. Letztlich, so Müller-Maguhn, gehe es darum, Datenverarbeitungsanlagen daran zu hindern, Daten zu verarbeiten. Die technologische Entwicklung werfe die Frage auf, ob die durch die Richtlinie prophylaktisch geschützten Schutzmodelle überhaupt funktionieren. Er zitierte Hucko mit einer Aussage auf einem anderen gemeinsamen Panel, derzufolge erst einmal zu prüfen sei, ob es sich dabei nicht um den Versuch handele, einen Pudding an die Wand zu nageln.

Auch Thorsten Braun, Justiziar des Bundesverbands der Phonographischen Wirtschaft, verwies technische Kopierschutzmaßnahmen, die ein Klonen von CDs vollständig ausschließen, in eine ferne Zukunft. "Was heute teilweise verwendet wird, sind unilaterale Kopierschutzsysteme, die es nur für einen ganz kleinen Bereich der Nutzung erschweren, digitale Kopien anzufertigen." Selbst wenn es sie gäbe, sieht Braun keinen Grund eine Durchbrechung dieser Maßnahmen vorzusehen, um einen Zugang zu Kulturgütern zu gewährleisten. Schließlich gäbe ja "freies" Radio mit tausenden von Programmen.

Wirksamkeit

Ob RKSe überhaupt funktionieren können, ist eine offene Frage. Darin waren sich die Vertreter des Ministeriums, der Industrie und der Hacker einig. Um diese Frage gar nicht erst aufkommen zu lassen, hat die Richtlinie den Begriff der "Wirksamkeit" gleich mit in die Definition des zu Schützenden aufgenommen. Art. 6 Abs. 3 führt aus: "Technische Maßnahmen sind als 'wirksam' anzusehen, soweit die Nutzung eines geschützten Werks oder eines sonstigen Schutzgegenstands von den Rechtsinhabern durch eine Zugangskontrolle oder einen Schutzmechanismus wie Verschlüsselung, Verzerrung oder sonstige Umwandlung des Werks oder sonstigen Schutzgegenstands oder einen Mechanismus zur Kontrolle der Vervielfältigung, die die Erreichung des Schutzziels sicherstellen, unter

Kontrolle gehalten wird." Müller-Maguhn hielt dem entgegen, dass es Geräte z.B. für digitales Fernsehen gebe, die man nur aufzuschrauben und eine Lötbrücke zu setzen brauche, um die Verschlüsselung auszuschalten, oder DVD-Player, die man nur aufschrauben und einen Schalter umlegen muß, um die Regionalsperre auszuschalten. "Eigentlich sind das keine 'wirksamen' technischen Maßnahmen."

Gabriele Beger, Justiziarin der Bundesvereinigung Deutscher Bibliotheksverbände erläuterte im Anschluß an das Hearing, dass als Maßstab voraussichtlich die Fähigkeiten des "Durchschnittsbürgers" zugrunde gelegt werde. Zur Ermittlung in einem Gerichtsverfahren könnten beispielsweise zwanzig zufällige Bibliotheksnutzer mit Werken in dem betroffenen RKS konfrontiert und gebeten werden, sie zu knacken. Gelingt es der festgelegten Zahl von ihnen, so muß die technische Maßnahme als unwirksam gelten und und entsprechend keinem Schutz nach Art. 6 unterliegen. Dass Spezialisten ihr Wissen verbreiten und so die Durchschnittskompetenzen erhöhen, verbietet Abs. 2 effiktiv.

Freiwillige Maßnahmen

Die Wissensfreiheiten der Schrankenbestimmungen stehen dem Schutz der RKSen diametral gegenüber. Was geschieht, wenn die Nutzung eines Werkes z.B. für wissenschaftliche Zwecke erlaubt ist, ein RKS diese aber technisch unmöglich macht und dessen Umgehung durch das neue Urhebergesetz verboten ist? Die WIPO-Verträge haben nur einen Minimalschutz gesetzt für den Fall, dass keine Schranke greift. Das läßt sich durchaus so verstehen, dass dann ein Recht, das RKS zu umgehen, wirksam wird. Die EU-Richtlinie sieht das anders. Art. 6 Abs. 4 zielt zunächst auf "freiwillige Maßnahmen" der Rechteinhaber. Erst wenn es dazu nicht kommt, haben die Mitgliedsstaaten geeignete Maßnahmen zu treffen, die sicherstellen, dass die von Schrankenrechten Begüstigten auch tatsächlich von ihnen Gebrauch machen können. Von Lewinski erläuterte, dass noch unklar sei, wie eine solche Lösug aussehen könnte.

Till Jaeger vom Institut für Rechtsfragen der Freien und Open Source Software (ifrOSS) sagte aus seiner Erfahrung im Software-Bereich voraus, dass wir davon ausgehen könnten, dass es zu freiwillige Maßnahmen nicht kommen werde. Tatsächlich hat sich immer wieder gezeigt, dass Unternehmen von ihrem primären Ziel der Profitmaximierung nur abgehen, um sich für soziale Ziele, Umweltschutz, Kultur oder Bildung zu engagieren -- sich also neudeutsch als "Good Corporate Citizen" gebärden -- wenn externe Motive sie dazu treiben, wie Druck von Arbeiter- oder Umweltschutzbewegung, Steuervorteile oder Marketinggelegenheiten. Wenn es also zu "freiwilligen" Maßnahmen kommt, dann weil die Richtlinie die Drohung ausspricht, andernfalls die Staaten mit einer Lösung zu beauftragen.

Wie könnte nun eine Selbstregulierungslösung aussehen? Einen Eindruck vermittelt Microsofts "Kompromißvorschlag" im laufenden US-amerikanischen

Kartellverfahren in seiner ganzen unverholenen Dreistigkeit. Nachdem das Verfahren die räuberischen Geschäftspraktiken des Monopols bereits bestätigt hatte, bot das Unternehmen an, als "Entschädigung" seine Software an alle amerikanischen Schulen zu verschenken. Das Ergebnis eines Verfahrens zur Eindämmung eines schädlichen Monopols wäre somit, dass Microsoft dieses flächendeckend zementiert. Analog könnten die Datenherren Deutschlands Schulen, Bibliotheken und sozialen Einrichtungen mit entsprechend zertifizierten RKS-Abspielgeräten ausstatten, die das Minimum an gesetzlich vorgeschriebenen Schrankenfreiheiten zulassen. Ihre Nutzung wäre mit einer individuellen Registrierung und der Einrichtung eines Kundenkontos verbunden, das automatisch mit der gerechten Vergütung an die Berechtigten belastet würde. Ebenso wäre eine "freiwillige" Privatkopielösung vorstellbar, von der die Nutzer nur mit einer online-Verbindung zum Verlagsserver Gebrauch machen können. Die Datenherren hätten der Auflage des Art. 6 Abs. 4 Genüge geleistet, erhielten einen ständigen Strom wertvoller individueller Marketinginformation und hätten außerdem, da sie das Vergütungsinkasso mit übernehmen, gleich noch die kollektive Rechtewahrnehmung durch die Verwertungsgesellschaften aus dem Feld geräumt.

Private Verträge statt öffentliches Recht
Die Richtlinie schränkt die Verpflichtung zu freiwilligen Maßnahmen weiter ein. Sie gilt nicht für Werke, "die der Öffentlichkeit aufgrund einer vertraglichen Vereinbarung [] zugänglich gemacht werden" (Art. 6 Abs 4 Unterabs. 4). Bietet also ein Unternehmen z.B. RKS-gekapselte Werke in einem Music-on-Demand-System an, sind automatisch Bibliotheks-, Privatkopie- und andere Schranken außer kraft gesetzt.

Braun begrüßte den Vorrang der vertraglichen Vereinbarung vor gesetzlichen Schranken. Das wichtigste Anliegen der phonografischen Industrie sei es, die Vertragsfreiheit abzusichern und ein "venire contra pactum proprium" ausschließen. Auf dieses Rechtsprinzip könnte sich eine Nutzerin berufen, wenn eine Lizenz, in die sie eingewilligt hat, ihr verbietet, z.B. eine Sicherungskopie ihrer Software anzufertigen, das Gesetz ihr diese jedoch erlaubt. Jaeger konterte, dass eine Ausschaltung gesetzlicher Regelungen durch Verträge nicht zugelassen werden dürfe, "denn wir haben hier keine Vertragsparität. Unserer Ansicht nach reicht es nicht aus, dem Einzelnen durch die Schranken ein Recht zu geben, denn er wird sich als Einzelner, gerade bei der Privatkopie, kaum durchsetzen können. Deshalb müssen wir hier einen gewissen Schutz schaffen."

Das Urheberrechtssystem gehört vom Kopf auf die Füße gestellt
Schon bei Software-Werken beschworen die Datenherren die "digitale Gefahr" herauf. Jaeger erinnerte daran, dass Software bereits heute restriktiver reguliert ist als andere Werkgattungen. "Sie haben dort schon eine 'Industrielösung', d.h. der Allgemeinheit sind nahezu sämtliche Schranken ausgeschlossen. Das einzige, was möglich ist, ist eine Sicherungskopie zu erstellen und in ganz geringem Maße zu dekompilieren." Nun scheint es, als hätte die Rechteindustrie wiederum aus der Herausforderung eine Gelegenheit

gemacht. Ihr geht es nicht nur darum, die bestehenden Urheberrechte aus der analogen Welt in die digitale zu übersetzen, sondern sich weitergehende Rechte und Freiheiten zu verschaffen und die öffentliche Seite der Balance so weit als möglich einzuzäunen. Mit anderen Worten, die Datenherren wollen die Privilegien des öffentlichen Rechts nutzen, aber die daran geknüpften Bedingungen im Interesse der Öffentlichkeit, das quid pro quo, die andere Seite der Balance beseitigen.

Entsprechend richtete sich auf dem Hearing mehrfach der Wunsch an den Gesetzgeber, Nutzerrechte festzuschreiben, die nicht lizenzvertraglich abtretbar sind. Dazu gehört z.B. der Fernzugriff auf digitale Werke unter kontrollieren Bedingungen. Leskien betonte, er müsse zu eim Grundrecht gemacht werden. Statt einer unbegrenzten Lizenzvertragsfreiheit der Verlage, drang er auf gleichförmige, klare, berechenbare und leicht zu handhabende Rechteverhältnisse, wie Normverträge sie bieten, damit die Bibliotheken ihre Aufgaben im Interesse der Öffentlichkeit sinnvoll wahrnehmen können.

Das Problem der Langzeitarchivierung ist ein Schlüssel zum Geist der Richtlinie. Die Verlage schieben diese Aufgabe den Bibliotheken zu, machen es ihnen aber gleichzeitig durch Lizenzen und RKSe unmöglich ihr nachzugehen. Verwerter interessieren sich für ein Werk in den allermeisten Fällen eine Auflage lang, die am Anfang beworben und am Ende verramscht wird. Ihren Kunde gewähren sie eine Nutzungslizenz allenfalls für die Lebensdauer des physikalischen Trägers oder der Soft- und Hardwaregeneration, die sie liest -- was immer kürzer ist. Die Richtline privilegiert dieses schmale Zeitfenster der Vermarktbarkeit. Sie vernachlässigt jedoch sträflich die Dimension des kulturellen Langzeitgedächtnisses der Gesellschaft.

Ein Beispiel aus der Verlagsgeschichte macht die zeitliche Dimension von Wissengütern dramatisch deutlich. Ende des 19. Jahrhunderts schien die Einführung von Säure in der Papierproduktion zur Erhöhung von Auflagen und Profiten als eine gute Idee. Eine Generation später erwies sie sich als Zeitbombe. Heute kämpfen die Bibliotheken gegen den unwiederbringlichen Verfall von sämtlichem papiergestütztem Wissen aus einhundert Jahren. Mit Rechtekontrollsystemen läuft unsere Wissensordnung heute sehenden Auges in die nächste Wissenskatastrophe.

Die logische Folgerung aus einem Grundwert der "informationellen Nachhaltigkeit" ist die Einführung digitaler Pflichtexemplare, wie sie in der analogen Medienwelt üblich sind. Verleger hätten diese bei einer entsprechend ausgestatteten Pflichtbibliothek abzuliefern, und zwar nicht nur ohne Kapselung in eine RKS-Hülle, sondern auch in einem offenen Dateiformat. Die Richtlinie deutet eine solche Möglichkeit im Zusammenhang mit der Zugänglichmachung digitaler Werke für Personen mit Behinderungen an. In der Erwägung 43 wird den Mitgliedsstaaten aufgetragen, ihr

besonderes Augenmerk auf "zugängliche Formate" zu richten. Die gleiche Forderung muß auch im Interesse der Bibliotheken und damit des kulturellen Langzeitgedächtnisses insgesamt erhoben werden. Berlin ist bislang das einzige Bundesland, das Pflichtexemplare für elektronische Publikationen vorschreibt. Das Problem hier ist, wie Gabriele Beger im Anschluß an das Hearing erläuterte, dass es an technischen und personellen Kapazitäten mangelt, um die Informationen tatsächlich bereitzuhalten. Gesetze sind also keineswegs hinreichend. Zusätzliche Instrumente müssen zum Einsatz kommen, damit die Gesetzesintention auch materiell wirksam werden kann.

Dass RKSe nicht einfach bedingungslos geschützt werden dürfen, wurde auf dem Hearing mehrfach vorgebracht. So forderte Kuhlen, die Systeme sollten nicht, wie bislang, ausschließlich nach den Interessen der Rechteindustrie entworfen sein, sondern auch die Interessen der Nutzer wahren. Die Richtlinie schützt sie pauschal, gleich, ob sie tatsächlich der Sicherung von Urheberrechten oder ganz anderen Zwecken dienen, wie etwa die DVD-Verschlüsselung CSS, die die Befolgung eines Konsortiumsstandards durch Gerätehersteller durchsetzen soll und -- zumindest bis zur Entwicklung von DeCSS -- GNU/Linux-Nutzer von der Verwendung von DVDs ausschloß. Derart umfassende Eingriffe in die Architektur des Cyberspace wie RKSe müssten somit selbst Gegenstand von Auflagen werden. Neben den urheberrechtlichen Schranken ist hier z.B. auch an datenschutzrechtliche Aspekte zu denken. RKSe müssten ein Recht, anonym zu lesen, wie es in der analogen Medienwelt selbstverständlich gegeben ist, wahren.

Bis zur Aushandlung eines breiten gesellschaftlichen Konsenses über die Funktion solcher Systeme könnte ein Selbsthilferecht der Nutzer einen Teil der Balance wiederherstellen. Das der Industrie hat der europäische Gesetzgeber anerkannt und geschützt, doch die Frage, was der Käufer einer zeitlich nicht limitierten CD-ROM machen soll, wenn er nach 10, 15 Jahren keinen Gebrauch mehr davon machen kann, weil die aktuelle Medientechnologiegeneration ihre physikalischen und Datenformate nicht mehr abzuspielen erlaubt, hat er außer acht gelassen. In einem solchen Fall müßten nicht nur Bibliotheken, sondern auch individuelle Nutzer ein Recht beanspruchen können, sich der verfügbaren Werzeuge zu bedienen, um die erworbenen Nutzungsrechte nicht nur theoretisch, sondern tatsächlich wahrzunehmen.

Jaeger schien eine Selbsthilfelösung weniger glücklich, denn durch sie würden nur diejenigen befördert, die die technischen Kenntnisse haben, um Schutzmaßnahmen umgehen zu können. Es müsse vielmehr um den Schutz von jedermann gehen. Als denkbare Lösungen schlug er die Verbandsklagemöglichkeit durch Verbraucherverbände oder einen Ordnungswidrigkeitenweg vor, also ein staatliches Vorgehen mit Bußgeldern gegen den Verstoß des Gebots, Werke gemäß den Schranken zugänglich zu machen. Hierfür gäbe es einschlägige Paragraphen im Kartellrecht, die hier wirksame und passende Mittel zur Verfügung stellten.

Kuhlen hätte sich in der Richtlinie einen Artikel gewünscht, der das primär schützenswerte Recht der Öffentlichkeit deutlich und rechtsfähig macht. Er sprach vor allem aus der Warte der Wissenschaft und hob hervor, dass ihre Autoren nicht nur ein Veröffentlichungsrecht, sondern eine Veröffentlichungspflicht hätten. "Ich denke, es gehört zur Berufspflicht eines jeden im öffentlichen Bereich arbeitenden und von der Öffentlichkeit finanzierten Wissenschaftlers, Wissen zu produzieren und es öffentlich zu machen, sei es durch seine Lehre, sei es durch seine Publikationstätigkeit. Das ist eine Pflicht, über die er keine Rechtsverfügung haben sollte. Es kann nicht sein, dass ihm das ausschließliche Recht zugestanden wird, eine Vervielfältigung zu verbieten oder über die öffentliche Wiedergabe oder öffentliche Zugänglichmachung ihrer Werke zu entscheiden." Die zweifellos weiter bestehenden Rechte der Wissenschaftler an ihren Werken sollten gesichert werden, aber eben nicht eine absolute Verfügung. Kuhlen schlug eine Verpflichtung zur Anerkennung der Urheberrechte durch eine Lizenzierung vor, wie sie in der freien Software üblich ist. Weitergedacht würde das zu einer "Public Knowledge License" führen, unter die alles Wissen gestellt würde, das in gesellschaftlicher Umverteilung mit Hilfe von Steuern oder Rundfunkgebühren erstellt wurde. Das geltende deutsche Urheberrecht kennt einen ähnlichen Mechanismus bereits für amtliche Dokumente. Kuhlen selbst sprach von einer "Open Document"-Lösung.

Jaeger faßte die Folgerungen des IfROSS folgendermaßen zusammen: "Es muß um einen gerechten Ausgleich von Urhebern, Verwertern und Allgemeininteressen gehen. Dennoch dürfen die Wissensallmende und die freien Standards, auf denen das ganze Internet beruht, nicht verloren gehen. Diese müssen geschützt werden. Das Urheberrecht betrifft nicht nur Musik und Filme. Wir müssen in diese Wissenbereiche hineingehen und Bestandteile frei halten."

Jeanette Hofmann vom Wissenschaftszentrum für Sozialforschung Berlin, die das Hearing moderierte, betonte in ihrem Schlußwort, dass es letztlich darum gehe, was Menschen im Umgang mit Wissen als fair, als gerecht und als angemessen wahrnehmen. Diese Begriffe änderten sich durch das Internet und Dienste wie Napster und klafften gegenüber dem, was uns rechtlich ins Haus steht, auseinander. "Wir können Recht nicht einfach gegen den Willen der Mehrheit der Menschen durchsetzen. Ich glaube, das hängt nicht nur davon ab, dass wir abschreckende Maßnahmen gegen Nutzung von Wissen installieren, sondern auch, ob Menschen einer Gesellschaft bereit sind, dieses Wissen zu akzeptieren."

Das aber würde voraussetzen, dass es eine breite gesellschaftliche Debatte gibt über die Grundwerte einer Wissensordnung, in der wir leben wollen. Immer mehr Menschen sind von den Auswirkungen des Urhebrerrechts betroffen, ob als Autorinnen, als Webseitenbetreiber oder als Nutzer. Dennoch ist geistiges Eigentum, wie das Hearing wieder gezeigt hat, immer noch ein Spezialistendiskurs. Mit dem Konstrukt der freiwilligen Maßnahmen der Industrie stellt die EU-Richtlinie auch diesen Prozess auf den Kopf. Die

Datenherren erhalten eine Frist, um ihre Lösungen für die lästigen Ansprüche der Allgemeinheit zu basteln. Nur wenn diese ausbleiben oder ungenügend ausfallen, ist der Staat gehalten nachzubessern. Umgekehrt hätte nach aller Logik demokratischer Gemeinwesen dem Partikularinteresse eine Frist vor der Implementierung von RKSen auferlegt werden müssen, in der eine breite öffentliche Debatte die Anforderungen klärt, die in der digitalen Wissensordnung erfüllt sein müssen, um die Interessen der Allgemeinheit zu wahren -- Zugang, Teilhabe, informationelle Selbstbestimmung, informationelle Nachhaltigkeit usw. Erst in einem zweiten Schritt wäre dann vor diesem Hintergrund zu prüfen, wo die Interessen der Autoren und Verwerter einen Nachteil erleiden, und wie dieser "geheilt" werden kann, wie es die Juristen ausdrücken. Es ist jedoch zu befürchten, dass die Novellierung unter großem Zeitdruck durch das Gesetzgebungsverfahren gehetzt wird, und das, obgleich auch technologisch noch viel zu wenig klar ist, wie Huckos Pudding plastisch machte.
Hucko betonte in seinem Schlußwort, dass sein Ministerium sich bemühen werde, die Richtlinie so umzusetzen, dass die Bibliotheken keinen Schaden leiden. "Allerdings wird sich nicht jeder Wunsch erfüllen lassen. Das liegt aber nicht an uns, sondern an der Richtlinie. Selbst wenn es das eine oder andere an Information in der Bibliothek vorübergehend nicht mehr geben wird, wenn diese Richtlinie sich als unmögliches Hemmnis für die Informationsgesellschaft herausstellen sollte, dann müsse wir das eben wieder ändern. Wenn bestimmte Information nicht mehr so angeboten werden kann, wie die Bibliotheken sich das wünschen, dann wird man darüber nachdenken, ob man das über Europarecht nachbessern muß." Er verwies ausdrücklich darauf, dass auch Richtlinien geändert werden können. Auch Leskien ist, bei aller Kritik, optimistisch: "Insgesamt läßt sich feststellen, dass es parteiübergreifend einen politischen Willen gibt, eine zu starke Spaltung der Gesellschaft in Informierte und Uninformierte zu vermeiden."

Die Zuständigen in der Bundesregierung haben ihre Lern- und Gesprächsbereitschaft gezeigt. Jetzt ist es an allen, die sich für eine freie Wissensordnung einsetzen, ihre Stimme zu erheben. Bis zum 30. August waren die Verbände und Interessenvertretungen aufgefordert, Stellungnahmen einzureichen. Doch noch ist es nicht zu spät. Eingaben, die jetzt noch eingehen, werden sehr wohl noch zur Kenntnis genommen. Im Dezember begann die Arbeit an einem Referentenentwurf, mit dessen Veröffentlichung im Januar zu rechnen ist. Die Bundesregierung will die Novellierung noch vor Ende der Legislaturperiode verabschieden. Danach ist eine Berichtspflicht von 18 Monaten eingebaut, nach der die Wirksamkeit der neuen Regelungen überprüft werden soll.

In den kommenden Wochen und Monaten wird es eine ganze Reihe von Veranstaltungen zu diesem Thema geben. Luzian Weisel wies auf einen Kongress zu Informationssystemen und ihren rechtlichen Aspekte hin, den der DGI in Zusammenarbeit mit wissenschaftlichen Fachverbänden im März in Ulm organisiert. Im Juni wird der DGI ein Online-Expertenforum zum

Informationsrecht ausrichten. Auch auf dem Chaos Communication Congress Ende Dezember wird es Veranstaltungen zur EU-Richlinie geben, u.a. einen Workshop, der sich mit Strategien für eine breite Kampagne zum Urherrecht beschäftigt. Mit weiteren Aktivitäten ist zu rechnen.

Anmerkungen
1. Vgl. die Beiträge von Till Kreutzer und Matthias Leistner zur EU-Richtlinie auf den Wizards of OS 2

Source:
http://waste.informatik.hu-berlin.de/Grassmuck/Texts/copyright-hearing.html

"There are tremendous empowerment possibilities, provided that the technology is in the right hands."

An interview with Shahidul Alam [12.01.2001]

Shahidul Alam is a media activist and journalist from Bangla Desh. He has lead campaigns against the digital divide and against the reconstruction of colonialism in the digital arena. Shahidul Alam also works as a photographer and is director of Drik, a photo agency based in Dhaka. Wolfgang Sützl spoke to him during the World-InfoCon in Brussels, in July 2000.

Q: You have been talking about the digital divide in your own society in society in Bangladesh, societal problems that occur in connection with informatization. Do you see a future for the project of development as such?

A: Well, I think the first thing we have to relate to is terminology. Development, if you see how the word is defined is not in itself an evil word. It is just that it has been appropriated by a certain organization, which has in a way controlled the flow of aid to the majority world countries. If one would analyze the rhetoric, one could go behind what is actually happening and talk about the general principles of building an egalitarian society with less asymmetry. Yet that in itself is not the problem, but more are the mechanisms for carrying it out. What has happened is that we have found ourselves deeply entrenched in a patron-client relationship within which people on the recipient end have very little control. And that is problematic. You also perceive this when you talk about civil liberties, good governance and civil society today. The concepts of accountability and transparency don't apply to donor agencies and NGOs, and that is something that has to be changed.

Q: Do you think that information technology could help societies in the so-called developing world to autonomously express their needs?

A: Not if you exclusively focus on the issue of connectivity, which by itself won't solve the problem. What has to happen is access at a much wider level, at a lower platform and also access for people, who don't yet have any. Providing connectivity to major urban centers and corporate bodies within a majority world will not change that. So both politically and technologically we need solutions that reach out to a very different public.

Q: When you say solutions that reach out to a very different public you refer to a term that you have been using in your presentation - appropriate technology. Could you clarify how appropriate information technology as we now have it actually is?

A: I start by asking the question appropriate for whom, because that is the foremost problem as certain people have determined that certain technologies are appropriate for certain target groups. Being in a country like Bangladesh I see that the Internet has tremendous possibilities as a subversive tool - and I don't mean subversive in a negative way. It can be used to challenge current hierarchies that are very damaging. I see it also as an enabling and empowering tool. But those enabling and empowering aspects of the Internet are not being promoted. Instead, what happens is that connectivity provides profit for certain bodies, and that is all that is on the agenda.

I certainly know of activists and journalists, people underground, who, with limited resources use this medium as much as they can. Those are the people that need to be given far better access and a greater extent of power. We also need hybrid technologies that include community Internet set ups, Internet radio, and even the use of the Internet in a manner, which doesn't necessarily require computers and other technological infrastructure. We have already done things like that in our country, where newspapers have been used to facilitate the exchange between the readers on the Internet.

Q: So there is a certain empowerment potential in informational technology?

A: There are tremendous empowerment possibilities, provided that the technology is in the right hands.

Q: Most of the software and computers we have today cannot be adapted to certain cultural symbolic registers such as language. Is there a danger of cultural homogenization through informatization?

A: Yes, of course there is. But that problem relates pretty much to any technology, as the people whose interest it serves push technology. It would be naive to expect languages such as ours to be on people's agenda. Microsoft for example said that the Bangla operating system would come out already in 1993. There is no reason why it should take this long, except that it is not a priority.

But some of the things we can do, and have already partially done, are the standardization within our own language. We need to standardize the keyboards, and even the fonts themselves, so that there exists transferability. So we have for instance modified existing fonts to guarantee Internet compatibility and made them available on the Internet for free. Also the Unix-like platforms, the open platform structures are things that we can take on. I don't actually see this as a fight that anybody else will be fighting for us. I am perfectly aware that we are a marginalized community and that our concerns will not matter to a wider public, particularly not in an economic sense. So we have to learn to use

these tools and adapt them in our favor.

Q: Some of the major development organizations seem to look at informatization in pretty much the terms they looked at industrialization 30 or 40 years ago; industrialization as the cure for all problems in the developing world. Is there a danger that the mistakes that were made at the time will now be repeated on a digital level?

A: I don't think they were mistakes, I think it was a very calculated anc concerted attempt to increase profits for certain groups, but was presented in a different way, which is why we look at them as mistakes. And exactly the same thing is now happening as regards informatics. The whole thing is designed to create a large labor pool for certain vested interests and in that sense it is certainly not a mistake. Those groups are proceeding very clinically, very methodogically and in a very calculated manner to increase their own profit.

It is not technology itself that is to be blamed, but its use, which in certain peoples hands will be only in a particular way. Technology has to be honest for our benefits and the research and development has to have people with different agendas on board. And I do not feel that donor agencies and NGOs will actually be agents to change this. They have been around for years and have not been instruments of a change. I fail to see why all of the sudden with the new technologies they should suddenly become more effective. What has to happen is that people on the ground have to shape and force certain accountability structures, so that they cannot get away with what they have been doing in the past.

Source:
http://world-information.org/wio/issues/992006691

About World-Information.Org:

http://www.world-information.org

Objective

World-Information.Org is a trans-national cultural intelligence provider, a collaborative effort of artists, scientists and technicians. It is a practical example for a technical and contextual environment for cultural production and an independent platform of critical media intelligence.

World-Information.Org constantly monitors and maps the infosphere, the world's invisible nerve system of information networks, as well as the global information economy. Through artistic and scientific exploration of information and communication technologies World-Information.Org disseminates an understanding of their cultural, societal and political implications, and fosters future cultural practice.

World-Information.Org is an agent of digital democratisation and the pursuit of digital human rights. Enlightening the opportunities, challenges and risks of information and communication technology, World-Information.Org provides information necessary for a democratic development of society, culture and politics. Under the patronage of the UNESCO, World-Information.Org serves to meet the needs and expectations of citizens for high quality and accessible services of cultural information and content.
The Institute for New Culture Technologies / Public Netbase, Vienna, is the carrier of World-Information.Org.

Mission

World-Information.Org is a collaborative effort of organizations and individuals who are directly concerned with issues of participatory involvement in Information and Communication Technologies, and the Internet as we know it today.

World-Information.Org addresses the rise of electronic information- and communication technology in which our society is subject to deep structural changes and transformations that affect all aspects of social life.
World-Information.Org recognizes that ICT is not Science Fiction, it is now that we experience a steady increase in the importance of intelligently processed information and communications and this demands new ideas at the interface of culture and technopolitics.

World-Information.Org declares that not only the influence of communication and information technologies on culture and arts, needs to be examined but

the artistic and cultural practice with and within digital networks and the resulting changes in society, politics and the artistic practice itself.

World-Information.Org demonstrates artistic practice in an increasingly immaterialized world, in which reference-information on situations are more relevant than the situation itself, and the use of digital networks for symbol-manipulation becomes more and more important.

World-Information.Org shows that the "digital revolution", the expected changes both within the sector of work and everyday life through the increasing use of ICT in analogy to the profound changes in our society through the "Industrial Revolution" or the so-called "Gutenberg Revolution" is also very much related to what is happening in the field of biotechnology, biometrics and the fusion of "flesh and machine".

Source:
http://world-information.org/wio/about

World-Information Exhibition

Oude Kerk Amsterdam
15 November to 15 December, 2002
Oudekerksplein 23
Amsterdam

Opening hours:
Monday - Saturday 11.00-17.00h
Sunday 13.00-17.00h

The exhibition consists of the three parts "World-Infostructure", "World-C4U" and "Future Heritage" that will outline the evolution of communication technologies and their consequences in relation to society, exhibit historic and state-of-the-art control and surveillance technology and display digital artworks and installations.

World-Infostructure

Welcome to the information sphere. Welcome to the World-Infostructure!
The transition from the industrial to the information society has dramatically changed the role and function of information. Today, information has become one of the most valuable economic goods and the development of the information society has created both a new, global technical infrastructure and - along with the new economy - a historically

unique power structure. World-Information.Org presents a close-up of the economic, technical, and political foundations of the globalizing information society.

The World-Infostructure focuses on the development of communication technologies and their societal, cultural, and economic impacts. Beginning with the alphabet, the World-Infostructure visualizes and describes the development of media: communication codes, tools, and increasingly sophisticated technical instruments.

Media have diversified and become global - the media and IT sectors being among the first to generate a trend towards large-scale mergers. Ownership of media equals power and influence. To demonstrate this, the World-Infostructure features the big players of the global media market, who control literally thousands of newspapers, online services, TV and radio stations: the production, manipulation, distribution and control of information is concentrated in the hand of few media oligopolies worldwide. Satellites and cables provide the world's central nerve system of information. Who owns and controls those electronic networks and who provides and possesses the technical information infrastructure? World-Infostructure gives an overview of the complex interrelations of technology, private investments and the public interest.

It shows the distribution of information and power: the winners and losers of information globalization, the information-rich and the information-poor.
World-Infostructure points out the problem of human rights in a digital world. A democratized society is based upon a broad understanding of communication processes and their underlying technologies. Therefore universal human rights have to be extended to incorporate the information society. Basic digital human rights mean the right to access the electronic domain, the right to freedom of expression and association online, and the right to privacy.

World-C4U

The 4 big Cs - command, control, computer and communication - are essential to the functioning of an information society.

Enterprises and corporations, military and governmental bodies, online service providers and secret services employ an impressive arsenal of sophisticated technology for control and security purposes. Under the pretext of national security, intelligence services have built up huge eavesdrop systems like Echelon, which allow them to intercept all electronic communication such as telephone calls, fax messages or e-mails worldwide. In a growing number of cities, the public and private areas are controlled by CCTV (Closed Circuit Television). Electronic voice, iris and

fingerprint recognition as well as other biometric technologies allow or deny access to bank accounts, buildings, or information.

Internet service providers collect individual data, identify a user's favorite sites and special interests, and create individual customer profiles - valuable personalized data for marketing professionals and e-commerce enterprises. Data mining and data tracking technologies transform information on personal shopping behavior or fields of interest into the virtual doppelgänger.

World-C4U highlights state-of-the-art security and control technologies, allows hands-on experience and presents historic examples of security technology.

Source:
http://world-information.org/wio/program/basic

Projects:

Electronic Media Monitoring 2002
L,onore Bonaccini (FR), Ewen Chardronnet (FR), Xavier Fourt (FR), Marko Peljhan (SI), Tomasz Sustar (SI),

The Electronic Media Monitoring project has started during World-Information.Org 2000 in Brussels as the continuation of the makrolab media monitoring work and has since been developed in an active mobile media monitoring technological unit, operating primarily during makrolab set-ups and in various monitoring labs in diverse geographical areas. The main activities of Electronic Media Monitoring 2002 are the monitoring of satellite based media on the widest possible geographical basis, the archiving of satellite based media programming, rx operations in UHF and L-band Comsat areas, satellite tracking, VHF satellite rx-tx, video KU-band reception and analysis, experimental Satcom project development and joint European air space mapping.

The Electronic Media Monitoring project is an integral part of makrolab - http://makrolab.ljudmila.org

Electronic Media Monitoring 2002 is a PACT Systems / Projekt Atol / Ellipse / Bureau d'Etudes / Springer project.

[RT-32] ACOUSTIC.SPACE.LAB @ IRBENE RADIOTELESCOPE
Derek Holzer (NL), Zina Kaye (AUS), Martins Ratniks (LV), Mr.Snow (AUS), Rasa Smite (LV), Raitis Smits (LV)

The project [RT-32] - ACOUSTIC.SPACE.LAB @ IRBENE RADIOTELESCOPE is a multi-media research of the VIRAC radio telescope - a 32 meter dish antenna in Irbene, Latvia: from the history of this top-secret Soviet era military object, including precise technical data, about it's conversion to scientific and civilian use, and to the international Acoustic.Space.Lab symposium on sound art, radio and satellite technology, which took place in August 2001, with the participation of more then 30 artists, radio amateurs and community radio activists from all over the world. The connection between the Oude Kerk and the giant antenna on the coast of the Baltic Sea in Irbene will be achieved using data 'audiolisation' and visualization tools. By the mixing of pre-recorded materials gathered at the dish and its re-interpretations with live signals via the net, Acoustic.Space.Research.Lab participants will create a live audio streaming performance.

The research materials will be compiled and published in the DVD RT-32, produced by RIXC (Riga, 2002): visual conception by Martins Ratniks, video and photo selection by Raitis Smits, texts by Rasa Smite, audio compilation by Derek Holzer (Amsterdam). Signals coming from the radio telescope will be visualized using a Firmament Applet that is built by Mr.Snow (L'audible/Sydney) to interface with these data. The Applet reads in data coming from the dish, which is then interpreted by a computer at the site.

http://acoustic.space.re-lab.net

Safe Distance
kuda.org (YU)

Safe Distance is a video that was recorded during NATO air strikes against FR Yugoslavia. The videotape shows the electronic cockpit of a US Air Force plane that - together with three other planes - was flying from NATO-base Rammstein (Germany) towards its destination in Yugoslavia. Its mission was to bomb several targets in the area around the cities of Novi Sad and Cacak. On the way back, after its mission was completed, the plane was shot. A tape was found near the crashed plane in the Fruska Gora Mountains in the Srem region and shows the last moments before the planes crash.

http://www.kuda.org

Synreal Virtual Combat
GLOW (AT), Margarete Jahrmann (AT), Max Moswitzer (AT), Konrad Becker (AT)

"Synreal Virtual Combat" is a virtual death match-arena: goal oriented and highly competitive. But unlike other killing games, "Synreal Virtual Combat" was not created by commercial game developers, but by a group of net artists upon invitation by the Viennese Institute for New Culture Technologies / Public Netbase: "The Art in Mortal Combat". The artistic approach to the development of "Synreal Virtual Combat" is a sculptural one. The three- dimensional game includes a variety of different rooms, connected by passageways, lifts and stairways. Playing "Synreal Virtual Combat" is like exploring a sculptural territory.

Instead of extensively working on the dangers of being attacked or killed by aggressors, the creators opted for numerous dangerous spaces, threatening the player to fall off the edge or from a high place, and the creation of poetic objects that grow or multiply when shot at. Another special quality of "Synreal Virtual Combat" is its soundtrack. The game does not employ techno sounds but instead uses electronic sounds that the artists have sampled or produced themselves for a true experience of synaesthetic online multimedia.

http://synreal.netbase.org

TRUST-SYSTEM 22 ANECHOIC II - Radio Phase
Marko Peljhan (SI)

TRUST-SYSTEM 15, TRUST-SYSTEM 21, and TRUST-SYSTEM 22 are projects which point to a possible path, that of the mastering of potential tools of war - in the case of SYSTEM 15 in the form of Unmanned Aerial Vehicles (UAV's - usually used as target drones or intelligence platforms) and in the case of SYSTEM 21 and SYSTEM 22 of a stealth missile (APACHE family - STORM SHADOW, SCALP EG) for civil tactical broadcast, civil intelligence gathering purposes, high speed evasion and tactical transmitter distribution. It is a work that implements the so-called "conversion" concept, much discussed in the framework of the conversion of former Soviet military industries to civilian uses.

The work is a partial presentation of a process conducted by the artist and his organization Projekt Atol from 1995 onwards, which is based on communication with the industries involved in manufacturing components for military and defence applications. Among other things, Projekt Atol researched how some of these components could be used in a manner, and implemented in a system, that they were not primarily designed for - in what we could define as a civil tactical field. TRUST-SYSTEM 22 is an installation and an ambient space presenting partial results of this research, possible implementation modalities and problems involved with

such development. The first flight of the TRUST-SYSTEM 21-22 platform prototype is expected in 2005 in the skies over the Balkans.

http://makrolab.ljudmila.org/

Your typical office, tapped and bugged

The "typical office" shows that surveillance is not something that only happens to suspected criminals or in war times, but can occur everywhere and at all times. While surveillance in the workplace has become more and more common and ranges from ordinary video surveillance to the use of modern technologies such as e-mail filtering and keystroke monitoring, the "typical surveillance office" alludes to past times, when during the Cold War intelligence agencies such as the Russian KGB and the East German Staatssicherheitsdienst tapped and bugged whichever place seemed important for them to gather information. The "typical surveillance office" invites to a journey into the recent history of surveillance and lets visitors search for where "Big Brother Is Watching You".

FUTURE HERITAGE

Future Heritage presents the cultural heritage of the future and introduces works of artists experimenting and operating with information and communication technologies.

Artists have always been among the first to explore the potentials of new media and have used them as means to express their ideas. Some of these media and technologies - such as electronic information networks e.g. the Internet - actually have a military origin. But, by supporting the process of accepting and discovering new forms of communication and expression, artists have ultimately adapted these new media as bridges to public consciousness.
The artistic exploration of multimedia and the electronic domain has generated a shift in contemporary arts toward a digital, web-based, and interactive creation and distribution of art. Information itself has become a raw material of artistic production. In essence, artists have turned into "informers". Future Heritage, therefore, introduces artists who present the most important aspects, ideas and artistic experiments in the digital domain.

The digital electronic cultures - so rich, diverse and vital - represent a testimony of our time. A testimony that helps us to understand the complexity of life and cultural identities.

Digital art of today is the cultural heritage of tomorrow.

Projects:

Boom!
Oliver Ressler (AT), David Thorne (US)

"If only" is the frustrated utopian refrain of Oliver Ressler and David Thorne's absurdly dysfunctional URL addresses collectively titled "Boom!". Utilizing this ubiquitous textual format of the "new economy," "Boom!" rehearses the defence mechanisms of the neoliberal imagination as it confronts its own internal crises. The acknowledged incompleteness implied by "if only" situates these texts somewhere between a guilty confession, a plea of desperation, and an ideological strategy session. The texts set for themselves the task of neutralizing the "problems" - the dislocated and potentially antagonistic groups engendered by the free market - that threaten the realization of the utopian ideal, implicitly embodied by the owners of capital. But Boom!'s utopian address deliberately fails to elicit from the viewer a positive identification with its purported message, having gone too far in specifying the contents of the universal "freedom" to which it aspires. This failure of identification thus displaces the locus of the "problem" from those constructed as the threatening "outside" of the capitalist utopia to the exclusionary, crisis-ridden grounds of that utopia itself.

Breakaway Suits
Yes Men (US)

Museum exhibits have recently been following a trend of modernization, in which assistance from the private sector is allowed to influence exhibit content, thus assuring the visitor not only the most up-to-date technology possible in an era of government downsizing, but also the most up-to-date content, ideas, philosophy, and directions for thinking in an era of industry advancement of the knowledge pursuits.
The New York Museum of Natural History has been a real bellwether in this regard. Its enormously popular 2001 exhibit on genetics ("The Genomic Revolution") was funded secretly by the Lounsbery Foundation. The Yes Men wish very much to participate, in their own tiny way, in this modernization of exhibition and knowledge. Therefore, in a montage reminiscent of old-style natural-history exhibits--notably those showing the evolution of ape into man--we will show the evolution of commercial value production from now to the future, in order to clarify this evolution, and give it a visual immediacy that will enable the whole family, from the puling to the doddering, to understand the core directions of business today, so that they might invest--psychologically as well as financially - where the earning is best.

http://theyesmen.org

BuBL Space
Arthur Elsenaar (NL), Taco Stolk (NL)

Do you need a break from the daily mobile soap? Surround yourself with soothing space. Simply press your pocketsize BuBL device. Release a bubble of silence. You'll feel pleasantly isolated inside, even in a crowded place. Evaporate all phone signals up to three meters around. Enjoy the silence. Create your Personal BuBL Space.

http://www.bubl-space.com

GLASNOST
0100101110101101.ORG (IT)

GLASNOST - transparency - consists of the stripping and diffusion of an enormous amount of data related to the private life of a strange couple. Two projects have been developed so far under this wider strategy. With the project life_sharing they opened up and made public all contents of their computers, transparent and accessible to the whole world through the Internet. Ideas, projects, archives, databases and even private mail are visible to everybody, who has no fear of getting lost in the huge labyrinth of data. Since the beginning of the project VOPOS they wear a GPS transmitter that, exchanging data with the satellites, transmits on their website, in real time, their exact position in the urban environment.

GLASNOST is complete digital transparency and a permanent self-surveillance system, exploring the contradictions of privacy in the era of information technology. GLASNOST mirrors the obsession of society with the collection and archiving of personal data.

http://www.0100101110101101.org

iSee
Institute for Applied Autonomy (US)

iSee is an inverse surveillance application for wireless devices and web-browsers that enables users to monitor and avoid CCTV surveillance cameras in public space. iSee users are presented with an interactive map showing the locations of known CCTV cameras in Amsterdam's public places. Users click on the map to specify a point of origin and destination, and iSee employs artificial intelligence algorithms to determine a path of least surveillance between the two points that avoids as many cameras as possible. In addition, iSee is also a data-collection tool used to document camera locations, use, and ownership. This data is available in a variety of formats to scholars and activists engaged in surveillance research,

public advocacy, and direct-action campaigns. Data for iSee_Amsterdam was collected during several public workshops conducted by www.spotthecam.nl.

http://www.appliedautonomy.com

Ministry
Jill Magid (US)

Playing Head Security Ornamentation Professional of System Azure, American Artist Jill Magid asks: ''Why be a silent witness when you can be a glamorous ornament?' In the Oude Kerk, Magid installs a chanting group of golden surveillance cameras. Like religious icons, the installation struggles with the historic problematic of what occurs when the mediating object is mistaken for the subject itself.

Molecular Invasion
Critical Art Ensemble (US), Beatriz da Costa (US)

The current neo- and endocolonial initiatives by corporations attempting to consolidate the food chain and its markets from the molecular level on up presents anti-capitalist activists with a new biological front that requires a new set of tactical responses. Currently, activists are relying on traditional methods and means for slowing the corporate molecular invasion. While such activities are useful, they are also insufficient in and of themselves. Current radical practices, such as luddite-oriented sabotage, seem to do more damage to the movement than to corporations. In our presentation, CAE will suggest new tactics and strategies that could be used to challenge corporate authority on the _molecular level_. CAE hopes to demonstrate that there is no place (physical, virtual, or molecular) that biotech corporations can act uncontested. By appropriating and reverse engineering corporate tools, resistant culture can effectively and efficiently fight the profit machine wherever it may reveal itself.

http://www.critical-art.net

World Processor
Ingo Günther (DE/US)

Günther specializes in the evaluation and interpretation of military satellite data gathered from political and military crisis zones. Defining the role of the artist as an informer, Günther combines artistic, journalistic and scientific approaches to make secret information accessible to the public. Since 1989, globes have become one of his favourite means of artistically impacting and stimulating political processes.

http://www.worldprocessor.com

ARTISTS

0100101110101101.ORG (IT)

Nobody knows with precision who's hidden behind the name 0100101110101101.ORG. Anything has been said about this renegade cyber-entity, accused of being "simple thief", dubbed as "media dandy" and "cultural terrorists" or, simply, "shit". They are the authors of some of the most perfect media exploits of the last years, such as the creation and diffusion, at the opening of the 49th Venice Biennial, of the computer virus "biennale.py" or the memorable theft of the art gallery Hell.com.

Léonore Bonaccini (FR)

Léonore Bonaccini is a media artist and member of the art group Bureau d'études. He is working on mapping new issues of world governance. The Bureau d'études' map about media is part of the Electronic Media Monitoring project. Bureau d'études contributes to Université Tangente researches about autonomous knowledge in Strasbourg.

Ewen Chardronnet (FR)

Ewen Chardronnet is the author of an anthology about the Association of Autonomous Astronauts, "Quitter la gravité" (Editions de L'Eclat, november 2001). He is also collaborator of Projekt Atol and Makrolab (SI) and coordinator for the art organization Ellipse (Fr), which aims to promote music and art collaborations in Europe. Ewen Chardronnet is operator in the Electronic Media Monitoring project.

Critical Art Ensemble (US)

Critical Art Ensemble (CAE), founded in 1987, is a collective of five tactical media artists of various specialization including computer art, film, video, photography, text art, book art, and performance. CAE's focus has been on the exploration of the relations and intersections between art, critical theory, technology, and political activism.

Beatriz da Costa (US)

Beatriz da Costa is a Machine Artist and Tactical Media Practitioner. Beatriz' background is in kinetic sculpture and interactive installation and more recently robotic art. Her current interests include the use of

robotic behaviour within various fields of cultural production. She is also working on the development of issue oriented performative and installation projects. She has been working in collaboration with Critical Art Ensemble since summer 2000 and is taking part in "GenTerra" (a bio-tech initiative), "Molecular Invasion" (public experiments) and "Tactical Gizmology (a workshop series).

Arthur Elsenaar (NL)

Arthur Elsenaar (1962) is a performance and installation artist, living in Groningen. He develops automatic performance-pieces and video-installations, which involve computer-controlled facial expression, algorithmic music, and synthetic speech. These works have been presented at scientific conferences, theatre festivals and art exhibitions throughout Europe and the United States. Elsenaar is principal teacher at Interactive Media and Environments (MFA IME) of the Frank Mohr Institute in Groningen.

Xavier Fourt (FR)

Xavier Fourt is a media artist and member of the art group Bureau d'études. He is working on mapping new issues of world governance. The Bureau d'études' map about media is part of the Electronic Media Monitoring project. Bureau d'études contributes to Université Tangente researches about autonomous knowledge in Strasbourg.

GLOW (AT)

GLOW is a media artist and DJ living and working in Vienna.

Ingo Günther (DE/US)

Ingo Günther, born 1957 in Bad Eilsen, Germany, studied Ethnology, Cultural Anthropology and Art in Frankfurt and Düsseldorf. Since the 1970s, numerous travels took him to Northern Africa, North and Central America and Asia. In the mid 1980s he moved to New York and in 1984 together with Peter Fend founded the agency 'Ocean Earth' that acquired the rights for civil satellite data, which they analysed and then sold to TV stations and the press. Two years later, in 1986, he quit the project. In 1987 he worked as a correspondent for the UNO and founded the 'World Space Corporation!, and in 1989 together with Norbert Meisner established the independent TV channel 'Kanal X' in Leipzig. Günther has also been assistant to Nam June Paik and since 1991 is Professor for Media at the Cologne Art University.

Derek Holzer (NL)

Holzer, born 1972 is a sound and radio artist, and founder of the Czech internet broadcasting project Radio Jeleni. One of his most recent projects is the Acoustic.Space.Lab, a collaboration with RIXC (Riga).

Zina Kaye (AUS)

Zina Kaye is an electronic/new media artists based in Sydney. As early as 1996 together with Mr. Snow she organized a live video performance over the internet and they were among the first people using the internet for radio broadcasts. Recurrent themes are planes, secret agents, airwaves and mysterious locations that have no fixed location.

Institute for Applied Autonomy (US)

The Institute for Applied Autonomy (IAA) is an anonymous collective of artists, engineers, and theorists dedicated to individual and collective self-determination. The groups stated mission is to develop technologies that extend the autonomy of human activists in the performance of real-world, public acts of expression. Past IAA projects include Little Brother, a propaganda robot intended to replace human activists; GraffitiWriter, a small graffiti-writing robot; and StreetWriter, a large graffiti-writing robot housed in an extended-body cargo van.

Margarete Jahrmann (AT)

Jahrmann, born 1967, in 1993/94 studied at the Rietveld Academy in Amsterdam, and in 1994 graduated from the Vienna University of Applied Arts. Since 1994 she has realized a variety of CD-ROMs, net projects, Superfem online performances, and Web3D projects. Jahrmann is also cofounder of Konsum.net, an art server. Her university teaching positions include the University for Applied Arts (Vienna), the University for Artistic and Industrial Design (Linz), and the University for Design and Art (Zürich).

kuda.org (YU)

kuda.org is a non-profit organisation of artists, theorists, media activists and researchers in the field of information and communication technologies (ICT). It explores critical approaches towards (mis)using of ICT and emphasizes creative rethinking in raising network society. kuda.org is a content providing platform for new cultural practices, media art

production and social layout and wants to establish media literacy and digital ecology in the age of information saturation as well as stimulate debates on many issues that arise around electronic media art and emerging forms of creative uses of technology.

Jill Magid (US)

Jill Magid plays with her self-proclaimed role of Director/ Head Security Ornamentation Professional of System Azure. She received a BFA from Cornell University 1995 and an MS in Visual Studies from the Massachusetts Institute of Technology 2000. Currently, Magid is a participant at the Rijksakademie van Beeldende Kunsten, Amsterdam. Her recent exhibitions include works within the Museum Van Loon, Amsterdam; TENT, Rotterdam; 'Rhinestoning Headqarters' Amsterdam Police Headquarters. She will have an upcoming solo show at Galerie Van Gelder, Amsterdam this winter. She lives and works in Amsterdam and New York.

Max Moswitzer (AT)

Born 1968, Moswitzer is a multimedia artist specialized in 3D simulations and artistic server design. In 1985 Moswitzer graduated from the University for Applied Arts in Vienna and concentrated on network projects, experimental artistic coding and computer manipulations. Since 1987 he produced various videos, music clips and artistic CD-ROMs. In 1990 he was a founding member of the artist group YOU NEVER KNOW that engaged in installations and media events. In 1995 Moswitzer co founded Konsum.net, an art server. He regularly produces interactive applications and online installations, videos, Internet projects and since 1997 realizes the set-up for telematic performances.

Mr.Snow (AUS)

Mr. Snow is a new media and electronic artist based in Sydney. An Internet pioneer, together with Zina Kaye, he as early as 1996 organized a live video performance over the internet. Him and Kaye were also amongst the first to use the Internet for radio broadcasts.

Marko Peljhan (SI)

Born 1969 in Nova Gorica, Slovenia, Peljhan in 1992 graduated from the Academy for Theatre, Radio, Film and Television in Ljubljana. Also in 1992 he founded the arts organization 'Projekt Atol' and in 1995 Project Atol`s

technological branch 'Pact Systems' (Projekt Atol Communication Technologies) in the frame of which he carries out research in the fields of performance, technology applications, radio, sound, video, film, lectures and situations. In 1995 Peljhan co-founded 'Ljudmila' (Ljubljana Digital Media Lab) for which he works as programs co-ordinator. Peljhan is also the operations coordinator of the 'Makrolab' project, which was shown at the Documenta X in Kassel. One of his recent projects is 'Insular Technologies' (International Networking System for Universal Long Distance Advanced Radio). Peljhan also co-organized the 'Beauty and the East' nettime conference in Ljubljana in 1997 and co edited and authored art and performance oriented publications and articles.

Martins Ratniks (LV)

Ratniks is a media, video and sound artist, member of E-LAB and Dj at OZOne Radio (since 1997). He makes visual concept and design for Acoustic.Space publications and works with digital video (VJing and video art) and since 1998 is one of the F5 - digital video artists group.

Oliver Ressler (AT)

Oliver Ressler, born 1970 in Knittelfeld, Austria, studied at the University for Applied Arts in Vienna, where he graduated in 1995. In 1998 he was artist in residence at the Banff-Centre for the Arts in Banff, Canada, and now lives and works in Vienna. His work includes exhibition projects on various socio-political issues. From 1994 onwards, he realized several projects on ecological themes such as genetic engineering or the greenhouse effect. In collaboration with Martin Krenn, Oliver Ressler realized three concrete projects on racism. Ressler's work has been exhibited all over Europe and in Canada.

Rasa Smite (LV)

Smite is a media artist, organiser and net activist, based in Riga, Latvia. Together with Raitis Smits and Jaanis Garancs she initiated E-LAB in 1996 and The Center for New Media Culture RIXC in 2000. Since 1997 she works towards the development of experimental internet radio, and co-founded the Riga internet radio OZONE, the publication on new media culture and net audio- "The Acoustic.Space", and the international net.broadcasters' network and mailinglist XCHANGE.

Raitis Smits (LV)

Smits, based in Riga, is a media artist and net activist and was involved in the foundation of the E-LAB media center in Riga (1996), co initiator of the Riga Net.radio OZONE and the XCHANGE Network in 1997. Smits is also editor and publisher of the Acoustic.Space - net.audio printed issue (1998, 1999).

Axel Stockburger (AT)

Born in 1974 Stockburger has studied visual media design at the Vienna University for Applied Arts. His artistic work focuses on multimedia videos for various events/clubs and game research, like play stations. He lives and works in London.

Taco Stolk (NL)

Taco Stolk (1967) is a conceptual researcher, living in Amsterdam. Since 1993 he is formulating WLFR, which can be described as the abstraction of an artist. This experiment discusses artistic methods and principles on fundamental levels. WLFR research explores a variety of media and distribution channels. It appears in visual, aural, textual and other forms. Stolk is head of the ExtraFaculty of the Royal Academy of Arts in The Hague. He teaches MetaMedia at this academy and the Royal Conservatory in The Hague, The Faculty of Creative and Performing Arts of the Leiden University, and the Frank Mohr Institute in Groningen.

Tomasz Sustar (SI)

Tomasz Sustar is a musician and media artist as well as collaborator of Projekt Atol and coordinator (aka Jadviga) of the rx:tx record label, which is a subdivision of Projekt Atol.

David Thorne (US)

David Thorne is an artist in Los Angeles. He produces in a variety of formats combining low and high tech methods and materials. His work has been exhibited nationally and internationally in subway stations, art spaces, political publications, community centres, and street demonstrations. Current projects include the ongoing series of artist bookwork's "Men in the News"; the collective project "Resistant Strains," producing political graphics and travelling exhibitions; and "The

Speculative Archive for Historical Clarification," a collaboration with artist Julia Meltzer.

Yes Men (US)

The Yes Men are a genderless, loose-knit association of some three hundred impostors worldwide. Their feeling today can be summed up in one simple phrase: Modern American Strategies. Although their name contains the word "Men," it doesn't describe who they are, it describes what they do: they use any means necessary to agree their way into the fortified compounds of commerce, ask questions, and then smuggle out the stories of their undercover escapades to provide a public glimpse at the behind-the-scenes world of business.

World-Information.Org Amsterdam 2002 organisation Team:

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Wolfgang Brunner: Producer
Gallus Vögel: Office Management
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Pieter Witteman: Technical Director
Hinde ten Berge: Producer
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Andreas Braito: Exhibition Architecture and Exhibition Setup Coordinator
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Wolfgang Sützl: Research Coordinator, Web & Displays Content Production
Eva Pressl: Research, Web & Displays Content Production
Yudi Warsosumarto: Corporate Design and World InfoStructure Design
Joan de Bot: Translations

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Desiree Hebenstreit: Logistics