Freedom—or Copyright

This essay was originally published on http://gnu.org, in 2008.

This document is part of GNU philosophy, the GNU Project's exhaustive collection of articles and essays about free software and related matters.

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This essay addresses how the principles of software freedom apply in some cases to other works of authorship and art. It's included here since it involves the application of the ideas of free software.

Copyright was established in the age of the printing press as an industrial regulation on the business of writing and publishing. The aim was to encourage the publication of a diversity of written works. The means was to require publishers to get the author's permission to publish recent writings. This enabled authors to get income from publishers, which facilitated and encouraged writing. The general reading public received the benefit of this, while losing little: copyright restricted only publication, not the things an ordinary reader could do. That made copyright arguably a beneficial system for the public, and therefore arguably legitimate.

Well and good—back then.

Now we have a new way of distributing information: computers and networks. Their benefit is that they facilitate copying and manipulating information, including software, musical recordings, books, and movies. They offer the possibility of unlimited access to all sorts of data—an information utopia.

One obstacle stood in the way: copyright. Readers and listeners who made use of their new ability to copy and share published information were technically copyright infringers. The same law which had formerly acted as a beneficial industrial regulation on publishers had become a restriction on the public it was meant to serve.

In a democracy, a law that prohibits a popular and useful activity is usually soon relaxed. Not so where corporations have political power. The publishers' lobby was determined to prevent the public from taking advantage of the power of their computers, and found copyright a handy weapon. Under their influence, rather than relaxing copyright rules to suit the new circumstances, governments made them stricter than ever, imposing harsh penalties on the practice of sharing. The latest fashion in supporting the publishers against the citizens, known as "three strikes," is to cut off people's Internet connections if they share.

But that wasn't the worst of it. Computers can be powerful tools of domination when software suppliers deny users the control of the software they run. The publishers realized that by publishing works in encrypted format, which only specially authorized software could view, they could gain unprecedented power: they could compel readers to pay, and identify themselves, every time they read a book, listen to a song, or watch a video. That is the publishers' dream: a pay-per-view universe.

The publishers gained US government support for their dream with the Digital Millennium Copyright Act of 1998. This law gave publishers power to write their own copyright rules, by implementing them in the code of the authorized player software. Under this practice, called Digital Restrictions Management, or DRM, even reading or listening without authorization is forbidden.

We still have the same old freedoms in using paper books and other analog media. But if e-books replace printed books, those freedoms will not transfer. Imagine: no more used book stores; no more lending a book to your friend; no more borrowing one from the public

library—no more "leaks" that might give someone a chance to read without paying. No more purchasing a book anonymously with cash—you can only buy an e-book with a credit card. That is the world the publishers want to impose on us. If you buy the Amazon Kindle (we call it the Swindle) or the Sony Reader (we call it the Shreader for what it threatens to do to books), you pay to establish that world.

The Swindle even has an Orwellian back door that can be used to erase books remotely. Amazon demonstrated this capability by erasing copies, purchased from Amazon, of Orwell's book *1984.* Evidently Amazon's name for this product reflects the intention to burn our books.

Public anger against DRM is slowly growing, held back because propaganda expressions such as "protect authors" and "intellectual property" have convinced readers that their rights do not count. These terms implicitly assume that publishers deserve special power in the name of the authors, that we are morally obliged to bow to them, and that we have wronged someone if we see or hear anything without paying for permission.

The organizations that profit most from copyright legally exercise it in the name of the authors (most of whom gain little). They would have you believe that copyright is a natural right of authors, and that we the public must suffer it no matter how painful it is. They call sharing "piracy," equating helping your neighbor with attacking a ship.

They also tell us that a War on Sharing is the only way to keep art alive. Even if true, it would not justify the policy; but it isn't true. Public sharing of copies is likely to increase the sales of most works, and decrease sales only for big hits.

Bestsellers can still do well without forbidding sharing. Stephen King got hundreds of thousands of dollars selling an unencrypted e-book serial with no obstacle to copying and sharing. (He was dissatisfied with that amount and called the experiment a failure, but it looks like a success to me.) Radiohead made millions in 2007 by inviting fans to copy an album and pay what they wished, while it was also shared through peer-to-peer. In 2008, Nine Inch Nails released an album with permission to share copies and made $750,000 in a few days.[1]

The possibility of success without oppression is not limited to bestsellers. Many artists of various levels of fame now make an adequate living through voluntary support:[2] donations and merchandise purchases of their fans. Kevin Kelly[3] estimates the artist need only find around 1,000 true fans.[4]

When computer networks provide an easy anonymous method for sending someone a small amount of money, without a credit card, it will be easy to set up a much better system to support the arts. When you view a work, there will be a button you can press saying, "Click here to send the artist one dollar." Wouldn't you press it, at least once a week?

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[1] "Nine Inch Nails Made at Least $750k from CC Release in Two Days," posted by Cory Doctorow, 5 March 2008, http://boingboing.net/2008/03/05/nine-inch-nails-made.html.

[2] Mike Masnick, "The Future of Music Business Models (and Those Who Are Already There)," 25 January 2010, http://techdirt.com/articles/20091119/1634117011.shtml.

[3] Kevin Kelly is a commentator on digital culture and the founder of *Wired* magazine.

[4] Kevin Kelly, "1,000 True Fans," 4 March 2008, http://kk.org/thetechnium/archives/2008/03/1000_true_fans.php.

Another good way to support music and the arts is with tax funds—perhaps a tax on blank media or on Internet connectivity. The state should distribute the tax money entirely to the artists, not waste it on corporate executives. But the state should not distribute it in linear proportion to popularity, because that would give most of it to a few superstars, leaving little to support all the other artists. I therefore recommend using a cube-root function or something similar. With linear proportion, superstar A with 1,000 times the popularity of a successful artist B will get 1,000 times as much money as B. With the cube root, A will get 10 times as much as B. Thus, each superstar gets a larger share than a less popular artist, but most of the funds go to the artists who really need this support. This system will use our tax money efficiently to support the arts.

The Global Patronage[5] proposal combines aspects of those two systems, incorporating mandatory payments with voluntary allocation among artists.

In Spain, this tax system should replace the SGAE[6] and its canon, which could be eliminated.

To make copyright fit the network age, we should legalize the noncommercial copying and sharing of all published works, and prohibit DRM. But until we win this battle, you must protect yourself: don't buy any products with DRM unless you personally have the means to break the DRM. Never use a product designed to attack your freedom unless you can nullify the attack.

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[5] See http://mecenatglobal.org/ for more information.

[6] The SGAE is Spain's main copyright collective for composers, authors, and publishers.