

## Three Proposals for a Real Democracy

Information-Sharing to a Different Tune

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Since their invention a few years ago, peer-to-peer (P2P) file-sharing networks for the free exchange of music have been the gadfly of consumer capitalism. Puncturing the profits of the recording industry, they have brought unlimited pop to teenagers' lives, and an ironic smile to the lips of those Internet purists who always scorned the profit-seeking illusions of the 'new economy'. For the politically minded, and particularly the older set which still equates guitars with protest movements, this massive transgression of copyright law could make it seem as if a long-awaited breath of cultural revolt was in the air. But there was just one problem: who would pay the piper? How would the artists (and, some added, the recording companies) survive in a world of free music?

Recently, quite a narrow range of solutions have been proposed: either pay-per-song download sites, in a centralising scheme favoured by the music industry; or a 'flatrate' tax on Internet users, preserving file-sharing by providing a source of monetary compensation to be distributed among the copyright holders. One of the flatrate proposals, specifically addressed to the EU's Internal Market Directorate, makes this case for peer-to-peer technologies: "The digital revolution holds the potential of a semiotic democracy, the reuse and remix culture being one of its most promising innovative aspects".<sup>1</sup>

So let's ask a question: exactly what's being promised here? And above all, how to get it? How to move from a semiotic to a real democracy?

Take another example of the digital revolution: the call for electronic publication of scientific and scholarly journals, by groups like the Public Library of Science or the Budapest Open Access Initiative.<sup>2</sup> Such publication projects have received extensive support from scholars and scientists, as they would eliminate the barriers to the exchange of knowledge represented by skyrocketing costs for peer-reviewed print journals, which have become prohibitively expensive even for many universities in the developed world. Together with guidelines for self-archiving (i.e., electronic publication without peer review), these initiatives promise the (re)creation of what certain theorists have begun to call an 'information commons',<sup>3</sup> resulting in a major transfer of knowledge from the wealthier institutions to their poorer cousins, and ultimately, from the North to the South.

Of course, we are still talking about purely semiotic freedoms. But what might arise from the 'reuse and remix' of scientific and scholarly knowledge? Well, technological

development, for one thing. And there, the need to go beyond a semiotic democracy is obvious.

Consider the case of highly expensive AIDS drugs. The knowledge and technology required to manufacture these medicines at low cost is already widely available. But the capacity to do so is limited by patent-protection regimes established on a global scale by the World Intellectual Property Organization (WIPO) and the TRIPS agreement (Trade-Related Aspects of Intellectual Property Rights) of the WTO (World Trade Organisation). It's against international law to save poor people's lives with rich people's science. Nonetheless, the combined efforts of AIDS activists, NGOs, health ministries in the underdeveloped countries, and risk-taking manufacturers such as Cipla in India, led to the deliberate transgression of the patent regimes (in 2001, Cipla could offer its tri-therapy generics to Médecins sans Frontières for a cost of \$340 a year per patient, compared to \$10,400 for the high end of the trademarked medicines).<sup>4</sup> The result of this activism was the WTO's historic Doha Declaration, which granted exceptions to the TRIPS provisions on patent law in the case of 'national emergencies', specifically including epidemics of AIDS, malaria and tuberculosis.<sup>5</sup> Yet the intent of the declaration is now being blocked, by collusion between the transnational drug industry and the current US administration.<sup>6</sup> Intellectual property laws make it difficult to realise the promise of free information exchange.

Why are the hidden connections between file-sharing (in everyday life), open publishing (in scientific and scholarly disciplines) and the transfer of vitally needed technologies (in North-South relations) not immediately obvious to large numbers of people? Or in other words, why is the democratic promise of the Internet (or the digital revolution) so broadly ignored?

Let's return to our entry point: solutions to the 'problem' of free music. An essayist named Rasmus Fleischer has a critique of the flatrate proposal, and specifically, of its claim to offer compensation to property-rights holders without exerting any control over users: "The record industry builds its power and its business model upon the ability to control people's musical preferences, and it's damn important for them not to loose their grip over that. It seems unsure how long they could go on motivating their existence in a situation where they do not themselves control how music is packaged and presented, what kinds of collection albums and boxes are marketed, when the different singles of an album are released in different parts of the world, etc. In fact, one could say that the music industry needs the money that current copyright laws grant them precisely in order to exercise control".<sup>7</sup>

Fleischer puts a finger on exactly what most advocates of free file-sharing fail to mention: what's being massively exchanged over P2P systems are not independently developed works like open source software, but commercially produced pop tunes which form a part of today's control culture. In contemporary societies, the word 'control' can serve to designate the ways that exclusive property rights are defended from effective critique, through a carefully orchestrated media modulation of attention, memory and belief.

We're no longer talking about ideology as a single, totalising worldview, and Debord's description of the spectacle society was still too general, too imprecise; what we find in reality is a competing mesh of solicitations, distractions, incitements, all reinforcing

different aspects of the basic set of social roles that shape our productivity and desire. Maurizio Lazzarato describes the ways that corporations 'create worlds' for their workers and consumers, and engage in 'aesthetic wars' to maintain their attractive power and belief-inducing consistency: "It is enough to turn on the television or the radio, go for a walk in a city, buy a weekly or daily newspaper, to know that this world is constructed through a statement-assemblage, through a sign regime, the expression of which is called advertising; and what is expressed (the meaning) is a prompt or a command, which are a valuation, a judgment, a belief about the world, about oneself and others. What is expressed (the meaning) is not an ideological valuation, but rather an incentive (it gives signs), a prompt to assume a form of living, i.e., a way of dressing, having a body, eating, communicating, residing, moving, having a gender, speaking, etc".<sup>8</sup>

The creation of rhythmically modulated worlds of sensation and desire is easy enough to grasp in the case of pop-music consumption, and innocuous enough, you might say. A more pointed example would be the endless streams of advertising for pharmaceutical products, offering a longer and healthier life, modulating moods and promising vitality, even ecstasy. But advertising is only one part of the control equation. Consider the complex opinion-shaping operations required to maintain the belief that the sky-high prices of pharmaceutical products are justified, even when the scientific discoveries that underlie them have most often been made at public universities, using public funds (as is particularly the case in the United States). The classic argument, repeated in the news media whenever necessary, is that it costs a total of \$500 to \$800 million to develop, test and produce a new drug, expenditures beyond the reach of any public research institution. However, those figures are provided by a lobby, the Pharmaceutical Research and Manufacturers of America, and by a research centre which receives 65% of its funding directly from the industry; real costs are probably a small fraction of the claimed amount. When pressed by a South African court to open their books and prove the research costs which justify their need for exclusive patents on AIDS drugs, 39 pharmaceutical companies preferred to withdraw their suit against the manufacture and distribution of generic medicines.<sup>9</sup>

Such cases threaten the industry's manipulation of our belief; yet pharmaceuticals remain a \$400 billion business worldwide, the third most profitable in 2003 (down from first in 2001 and 2002). Marcia Angell makes this remark: "The most startling fact about 2002 is that the combined profits for the ten drug companies in the Fortune 500 (\$35.9 billion) were more than the profits for all the other 490 businesses put together (\$33.7 billion)".<sup>10</sup> The good life isn't exactly free these days.

So what are the melodies that big pharma would like us to hear? One that entices, another that deceives, and a third that motivates, like the sound of a jackpot tinkling in the till. Among the neoliberal transformations of the public sector is the way that research is conducted. In the United States (which Europharma envies, for this and one more reason),<sup>11</sup> the results of research conducted with federal grant money can be patented by the university and licenced exclusively to private start-ups, which then sell their patented technologies to major corporations; inventors receive a portion of the licencing revenues and may also have an interest in the new business.<sup>12</sup> Withholding publication for patent protection has therefore become increasingly frequent.<sup>13</sup> In this way, the culture of

privatisation subtly controls the availability and applications of research; and also the very motivation and desire of researchers, who are encouraged to seek their own profit rather than to share knowledge as a public good.

A bit of proverbial wisdom applies here: 'He who pays the piper, calls the tune'. But when the payments have become structural, when they involve a vast, interlocking system of regulations, interests, strategies and seductions, then a change in the controlling rhythms of social experience requires the introduction of something fundamentally different, entirely outside the prevailing systems of payment (or extortion) that characterise cognitive capitalism.<sup>14</sup> The free exchange of music files has that something: not so much in the branded tunes as in the fact of free exchange, outside a market structured overwhelmingly in the favour of exclusive right-holders and monopolistic corporations. And each file exchanged is a gift that challenges not just one industry (the recording business) but the whole institution of intellectual property.

Nonetheless, if we are to make something of this upsurge of the commons in immediate daily experience, it must be linked to a wider program for the transformation of what are now the basic rules of social interchange. This entails inventing and instituting the conditions for the production and distribution of alternative forms of journalism, scientific and scholarly knowledge, but also cultural creations such as music, literature and the visual arts. Such alternative forms, in all their diversity and intricacy, can also become war machines of a new and astonishing kind, in the aesthetic struggle to create the worlds in which we live. What we need today, on the Left, is to transform the possibilities of semiotic play, stimulated by the 'digital revolution', into a far-ranging, multi-levelled, but above all communicable and workable program for a real democracy.

To begin doing this requires a debate about the kinds of practices, struggles and goals that could effect such transformation. In other words, it's necessary to grapple with the preconditions, both semiotic and material, of alternative information exchange, which ultimately means changing the current relations between the market, the state and the public domain or the commons. Without such a debate, aiming to create a program of substantive social change, what used to be called 'the Left' will grow increasingly weaker, while the culture of privatisation heightens world tensions by deepening basic inequalities.

So let us begin right here. Starting with the promise of free information exchange, one could develop three interlinked proposals:

1. The constitution of a cultural and informational commons, whose contents are freely usable and protected from privatisation, using forms such as the General Public License for software (copyleft), the Creative Commons license for artistic and literary works, and the open-access journals for scientific and scholarly publications. This cultural and informational commons would run directly counter to WIPO/WTO treaties on intellectual property, and would represent a clear alternative to the paradigm of cognitive capitalism by conceiving human knowledge and expression as something essentially common, to be shared and made available as a virtual resource for future creation, both semiotic and embodied, material and immaterial.

2. The egalitarian transformation of existing, publicly funded cultural and scientific infrastructure (where elite interests determine the forms of mass consumption), through the

invention of new forms and protocols of access to the means of the production and distribution of journalism, culture and scientific knowledge, and to the complex resources necessary for that production/distribution (archives, libraries, studio and rehearsal spaces, laboratories, university courses, etc.). This transformation, which alone can allow us to go beyond the domination of public-opinion formation by market-driven televisual media, would serve to encourage reasoned democratic debate (the exchange of ideas), but also autonomous artistic creation and expressive politics (social movements).

**3.** The re-invention of former programs of collective insurance safeguarding the health and well-being of society's members, but in a new and more diversified form, integrating both the demand for equality and the right to difference: guaranteed basic income, provision of low-priced housing and basic services, health insurance and high-quality education for all. The challenge here is not to revive the bureaucratic state with its stultifying procedures of categorisation and homogenisation, but rather to invent new forms of appropriation and even of property, whose effects would be liberating but not isolating, social rather than narrowly individualistic.

Together, these proposals sketch the outlines of a far-reaching transformation. Yet each is simply essential for the concrete participation of citizens in an egalitarian democracy. For you cannot contribute to the wealth of global common goods without having access to the tools of production/distribution, and to existing informational and cultural resources; and yet this kind of engagement also requires that you have the time, time liberated from the relentless need to earn money for the basic necessities of social reproduction. The apparent audacity of ideas like the information commons or the guaranteed basic income, their apparent lack of 'realism', merely underscores the crying absence of the political in today's debates. There's more at stake here than a catchy tune, or a pill to make you dream.

Only an ambition to change the rules of the economy and, ultimately, the existing form of the state, can supply the oppositional force that is needed in the early 21<sup>st</sup> century. Yet the proposals above, inspired in part by the 'digital revolution', indicate pragmatic changes which are already underway; they do not depend on electoral victories for their realisation. Rather than a complete, finished program, they point toward an exodus from the present impasse. Semiotics with material consequences. Information-sharing to a very different tune.

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## NOTES

1. "Berlin Declaration on Collectively Managed Online Rights: Compensation Without Control", at <http://wizards-of-os.org/index.php?id=1699>.
2. For a good description of the BOAI and links to corresponding initiatives, see the FAQ at <http://www.earlham.edu/~peters/fos/boaifaq.htm#impactaffordable>.
3. The information commons, a notion strongly influenced by the practice of open source software distributed

under the General Public License, is succinctly defined by Yochai Benkler in his article "The Political Economy of Commons" in *Upgrade*, June 2003, Vol. IV, No. 3, available at [www.upgrade-cepis.org/issues/2003/3/up4-3Benkler.pdf](http://www.upgrade-cepis.org/issues/2003/3/up4-3Benkler.pdf).

4. Source: *Libération*, 8 July 2004, at [www.liberation.fr/page.php?Article=222215](http://www.liberation.fr/page.php?Article=222215).
5. Text at [www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_trips\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm).
6. See the Health Global Access Project article at [www.healthgap.org/press\\_releases/03/](http://www.healthgap.org/press_releases/03/).
7. "Content Flatrate' and the Social Democracy of the Digital Commons", posted on Nettime on 13/7/04, at <http://amsterdam.nettime.org/Lists-Archives/nettime-l-0407/msg00020.html>.
8. M. Lazzarato. "Créer des Mondes". in *Multitudes* 15 (Winter 2004), at [http://multitudes.samizdat.net/article.php?id\\_article=1285](http://multitudes.samizdat.net/article.php?id_article=1285); the passage quoted figures in "Struggle, Event, Media" at [www.republicart.net/disc/representations/lazzarato01\\_en.htm](http://www.republicart.net/disc/representations/lazzarato01_en.htm) (translation modified).
9. Source: "Yale University Shares Profits From AIDS Drugs", *Le Monde Diplomatique*, February 2002, available at [www.mindfully.org/Industry/Yale-University-AIDS-ProfitsFeb02.htm](http://www.mindfully.org/Industry/Yale-University-AIDS-ProfitsFeb02.htm).
10. "The Truth About the Drug Companies". In *The New York Review of Books*, Vol. 51, No.12 (July 2004); available at [www.nybooks.com/articles/17244](http://www.nybooks.com/articles/17244).
11. The other reason being the extremely high profitability of the unregulated US market. For Europharma's envy, see the references to the U.S. in the 2003 industry report of the European pharmaceutical lobby EFPIA, at [www.efpia.org/6\\_publ/Inffigures2003.pdf](http://www.efpia.org/6_publ/Inffigures2003.pdf).
12. The relevant legislation is known as the Bayh-Dole act, passed in 1980 at the very outset of the neoliberal turn; text at [www.cctec.cornell.edu/bayh-dole.html](http://www.cctec.cornell.edu/bayh-dole.html).
13. Source of these assertions: Jennifer Washburn, "The Kept University", *The Atlantic* (March 2000), at [www.theatlantic.com/cgi-bin/o/issues/2000/03/press.htm](http://www.theatlantic.com/cgi-bin/o/issues/2000/03/press.htm).
14. Much of the writing in the French journal *Multitudes* has been devoted to the contradictions of "cognitive capitalism", which displaces the creation of surplus value into a largely semiotic realm, but to do so, relies on the intellectual and affective cooperation of people creating their own measures of value, and working outside any direct labour discipline. See esp. *Multitudes* 2 (May 2000), or the anthology *Vers un Capitalisme Cognitif* (L'Harmattan, 2001, Paris).

