

DIGITAL COMMONS

OUR SHARED RIGHT TO KNOWLEDGE AND CULTURE

AN INTERVIEW WITH
JULIA REDA

As the volume of cultural and scientific works produced and available on the internet continues to expand, the question of freedom to consult and use this immense ‘digital commons’ is becoming a critical one, particularly as cutting off access could entail serious consequences for education, cultural exchange, and even the health of European citizens.

GREEN EUROPEAN JOURNAL:

What is your definition of the digital commons?

JULIA REDA: For many centuries, it was quite clear that there is this cultural heritage that people share, a heritage that is not owned by anyone in particular, but which everyone has the right to access. I think the idea of the digital commons is very close to the nature of this shared heritage; as opposed to physical commons it is about immaterial goods, about knowledge and culture, things that cannot be appropriated by any one person. By this we mean cultural goods that have been in the public domain for many years, and those whose copyright has run out; but also digital commons that were recently created, and then donated to the public domain, by using free licences such as Creative Commons.

In the early years of the internet there were numerous projects that could qualify as digital commons, projects that have defied the idea that people would only put effort into their work if they expected some exclusive personal benefit from it. We see from the example of people who participate in projects like Wikipedia, or people who put their writing online, that personal gains are not the only motivation for people active on the internet. I think people have an innate need to express themselves, and to get recognition for what they have created.

The idea underlying this is that even if a piece of work, writing, or music is created by only one person, it still doesn't belong purely to him or her, because we are, on a daily basis, influenced by our environment, by the works that were written and published by others, and so on. Therefore we cannot claim exclusive ownership of them.

Would you envision a commons-based collaborative economy as the ultimate economic governance regime in the digital world, or could it coexist with different models?

JULIA REDA: It's unlikely that the capitalist exploitation of culture will go away any time soon. But it is definitely not the only way for artists to make a living. There are lots of different explanations about why we have today's copyright regime, and why we have this exploitation of cultural works. But at the end of the day it is all about making money. So I think our future depends on our ability to create different ways of earning a living. Some people are already doing that. The nature of the culture and knowledge economy is changing quite a lot these days, for example musicians nowadays, instead of selling their music, are spending a lot of time creating a relationship with their audiences. It is not just about live tours, but also about giving people the opportunity to participate.

But it is not just about music and culture. In academia, for example, we see that big publishers are monopolising the market of scientific publications, which severely restricts the creation and spreading of knowledge. Can the commons provide an alternative to that?

JULIA REDA: I think the privatisation crisis in the sciences is a result of the broader privatisation of education. I am not talking only about scientific publications, but also about a wider trend of moving away from the idea that education is supposed to be a public good. Historically, the universities in Europe were public, the professors were paid by the taxpayers, and researchers and students were also given a relatively large degree of freedom to explore their own research interests. An apparent change in this idea of education as a public good has been the Bologna reform that shifted university education towards a more organised, market-ready education that serves the needs of employers.

This change has reinforced the idea that the success of researchers has to be measured quantitatively, particularly by looking at where they publish. And the largest and most prestigious publications tend to be closed access journals, such as Elsevier and others. Prior to the internet these publishers were, to some extent, fulfilling an important function in disseminating information, but today their work is rather counterproductive to the

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spread of knowledge and the idea of making education a public good. I think organisationally and technologically universities would be capable of building a repository, where the results of all research that was paid by the taxpayer would be made available for free in order to let everyone use them. This is already happening, for example with the arXiv system (a repository of electronic preprints of scientific papers) in theoretical mathematics and physics.

What do the digital commons mean for Europe?

JULIA REDA: At the moment, the lack of a well-curated and well-preserved cultural commons means that it is extremely difficult for the people of Europe to experience different cultures. An average European movie, for example, can be seen only in 3 out of 28 countries due to exclusive licensing regimes.

The exchange of knowledge and culture in the EU has therefore been made difficult. And we don't have legislation that protects the public domain or promotes issues such as creative commons to facilitate cultural exchange between countries. One of the easiest ways to build a common understanding of Europeanness and to build connections in Europe would be through culture. And that's what we are blocking, by making it more difficult for people to exchange their cultural heritage, not to mention sharing, modifying, remixing, and communicating it online.

Is there any support in the European institutions for this idea?

JULIA REDA: On the one hand, there is an Intergroup in the European Parliament that deals with the idea of the commons, which enlists people from a broad range of backgrounds. There are people like me, who are coming from a digital commons and copyright perspective, and there are people who are working on access to medicine, public services, or water. But it is pretty much a project of the political Left in the European Parliament.

On the other hand, the idea that we need greater flexibility in sharing knowledge, culture, and research results has neoliberal proponents. There are people who think of intellectual property as a monopoly, and since they are, from a liberal economic point of view, opposed to monopolies, they would like to shorten the copyright protection terms because they don't think that the intellectual property rights we have today are beneficial for economic development.

Is it possible to build alliances along these lines?

JULIA REDA: Sometimes it is possible. When I was working on my report on copyright reform, in some cases I was receiving more support from the political Left, and in other cases it was more from Liberals and Conservatives. There is, however, a big problem in the European Parliament: the number of people who work closely on questions of the digital commons, and who really know how the copyright regime functions and where the problems are, is tiny. The administrative basis of the European Institutions is incredibly small, the European Commission's size is comparable to the administration of a large city, and the in-house research services available to the European Parliament are relatively limited. Within the tight budget the European Union actually gets we are supposed to make relatively independent public interest policy but due to our limited capacity the European

Commission, as well as many of my colleagues in the European Parliament, heavily rely on expertise from interest groups.

How effective can the pro-commons actors be when spreading information?

JULIA REDA: Everybody who tries to influence policymaking in the EU is a lobbyist. And among them there are commons interest groups as well, but they are usually not the ones who have the most influence on policymaking. But there are some notable exceptions: in terms of lobbying, probably the most effective group that is promoting the idea of the commons is Wikipedia. On questions like access to the commons, I am in complete agreement with Wikipedia. But when it comes to the question of net neutrality I take a very different line. Wikipedia has, for example, made deals with some internet service providers in developing countries to give people access to Wikipedia, but not to other online services. That's the big problem: when there is a group that is big enough to influence policy, it will probably also have its own agenda that will not always overlap with the public interest.

What are the most important struggles concerning the digital commons today?

JULIA REDA: One of the most important struggles is to prevent anti-commons privatisation policies from proliferating around the world through trade agreements. I was just visiting Japan for a number of discussions around how to handle copyright requirements that are pushed upon them through the Trans-Pacific Partnership agreement (TPP). A lot of these requirements originally came from the European Union (when trying to harmonise standards). Specifically, they have to extend the copyright protection from 50 to 70 years after the death of an author, but most of the culturally and commercially successful works in Japan, such as a lot of ‘anime’ series and videogames, are much younger. So Japan has no interest extending its copyright, and forcing them to do so would drastically limit the population’s access to knowledge, as the national library is digitalising all the public domain works and putting them online for people to use.

Looking at the EU, we also need to overcome the idea that copyright could be the

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only solution to fix the problems of cultural industries and authors. I think what authors need the most is protection from unfair contracts, or buy-out contracts, that cuts them out from any revenue generated by their work. Currently, we see that there are proposals that would even further strengthen the position of rights holders.

Thirdly, we need to proactively protect the public domain. At the moment, we don’t have any definition of the public domain in the law. Basically, the public domain in today’s Europe is defined by the absence of things: only things that are not protected by law or international property rights can be seen as part of the public domain, but there is no way or measure to protect that, to make it more accessible to people, or to preserve it for future generations. In some European countries there were even court decisions that said, if a private entity digitises a part of the public domain, it can have the right to the digital version, even though it hasn’t created anything, but just made a digital copy of it. So I think we run the risk of public domain works becoming appropriated by private companies.



In some cases the digital commons can manifest themselves as physical entities, for example in the case of infrastructure, but also when it comes to medical devices that need some kind of software to function properly. Can you tell us more about that issue?

JULIA REDA: From an economic perspective, a technology can be most beneficial to society when there is competition. The commons play an important role in ensuring that. If you look at the telecommunications market, in many countries there is a lack of competition, because the infrastructure – such as the fibre networks– is not owned by the municipalities or the state. In Germany, for example, Deutsche Telekom has privatised the copper infrastructure and is basically dominating the market. If the cables were communalised there could be competition around the services that are provided, based on this infrastructure.

Similarly, in areas such as robotics we will need some kind of regulation in order to protect public interest goals, such as consumer protection and health care. Let me give you an example: when you have a pacemaker, you are implanting a small computer into your body and the software that runs on this small computer can be treated as a business secret, even though any security problems can end up being physically harmful to you. Today, we have extremely strict medical regulation, when it comes to bringing new physical

devices to the market, but so far this regulation doesn't extend to the software on it.

If you want patients to make an informed decision, they need to have a right to know how their devices work. But today this knowledge is not available, the companies can treat it as a secret and this definitely needs to change.

This is very similar to what went on in the so-called “dieselgate” [also known as the Volkswagen emission scandal, which refers to the company's cheating in pollution tests through the software settings of its diesel engines]: the regulators don't require car manufacturers to explain how their software works, and therefore it becomes easy for them to deceive customers and authorities.

This sounds like a question of regulation. Where do the digital commons come into this?

JULIA REDA: The state can require manufacturers to disclose their software, but they are probably not the ones who are going to analyse it. If it is public, there is an opportunity for the public – and also ethical hackers, researchers, and experts – to scrutinise it. There doesn't need to be a commercial motive. It can be entirely motivated by the commons idea. So this is an example of a situation where public regulation can make it possible for the commons to improve the security of a technology that we are using in our lives.

How do you see the fight for the digital commons and digital rights? Is it feasible to mobilise people to take to the streets and demand more respect for the digital commons?

JULIA REDA: To some extent it has worked with the protests against ACTA [the Anti-Counterfeiting Trade Agreement aiming to establish international standards for intellectual property rights enforcement, rejected by the European Parliament in 2012]. But in principle I would say that it is easier to mobilise and protest against something than for something. So I think protests are a good tool to prevent some negative developments, such as trade agreements that would make the situation worse. But to improve the situation, we need a more nuanced strategy. Initiatives that are outside the political sphere, such as Creative Commons licenses, have been very effective in simply demonstrating that there is a different approach, and a different way of sharing culture.



JULIA REDA

is “the Pirate in the European Parliament”; she represents a young worldwide movement of people who believe in using technology for the empowerment of all. She is a member and one of the Vice-Chairs of the Greens/EFA group and a co-founder of the Parliament’s current Digital Agenda intergroup. She has been active in the German pirate movement since 2009.