



Barcelona Culture Forum

Charter

for Innovation, Creativity and Access to Knowledge

Citizens' and artists' human rights in the digital age

Immediate and urgent solutions
Summary version 1.0

We, a broad coalition from over 20 countries, of hundreds of thousands of citizens, users, consumers, organizations, artists, hackers, members of the free culture movement, economists, lawyers, teachers, students, researchers, scientists, activists, workers, unemployed, entrepreneurs, creators,...

We invite all citizens to make this Charter theirs, share it and practice it.

We invite all governments, multinationals and institutions urgently to listen to it, understand it and enforce it.

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1. Introduction

We are in the midst of a revolution in the way that knowledge and culture are created, accessed and transformed. Citizens, artists and consumers are no longer powerless and isolated in the face of the content-providing industries: now individuals across many different spheres collaborate, participate and decide. Digital technology has bridged the gap, allowing ideas and knowledge to flow. It has done away with many of the geographic and technological barriers to sharing. It has provided new educational tools and stimulated new possibilities for forms of social, economic and political organisation. This revolution is comparable to the far reaching changes brought about as a result of the printing press.

In spite of these transformations, the entertainment industry, most communications service providers, governments and international bodies still base the source of their advantages and profits on control of content and tools and on managing scarcity. This leads to restrictions on citizens' rights to education, access to information, culture, science and technology; freedom of expression; inviolability of communications and privacy. They put the protection of private interests above the public interest, holding back the development of society in general, exactly as the Inquisition did in reaction to the arrival of the printing press.

Today's institutions, industries, structures or conventions will not survive into the future unless they adapt to these changes. Some, however, will alter and refine their methods in response to the new realities. And we need to take account of this.

Political and economic implications of free culture

Free culture (as in "freedom", not as "for free") dramatically enlarges the spaces for civic engagement. It expands the range of individuals and groups able to contribute to public debates. It is therefore strengthening democracy at a time of crisis, just when stronger forms of democracy are urgently needed. Free culture is a precondition for freedom of expression, itself an essential prerequisite of democracy. It helps to reduce the digital divide, thus enabling the democratic potential of the new technologies to be realised.

Free culture opens up the possibility of new models for citizen engagement in the provision of public goods and services. These are based on a 'commons' approach. 'Governing of the commons' refers to negotiated rules and boundaries for managing the collective production and stewardship of and access to, shared resources. Governing of the commons honours participation, inclusion, transparency, equal access, and long-term sustainability. We recognise the commons as a distinctive and desirable form of governing. It is not necessarily linked to the state or other conventional political institutions and demonstrates that civil society today is a potent force.

We recognize that this social economy, in addition to the private market, is an important source of value. The new commons revitalised through the digital technology (amongst other factors) enlarges what constitutes "the economy". At present governments give considerable support to the private market economy; we urge them to give the same extensive support that they give to the private market to the commons. All that the commons needs to prosper is a level playing field.

The current financial crisis has shown the severe limits of market fundamentalism. The devastating social and economic consequences of the financial collapse also demonstrates that uncontrolled markets guided only by competition and self-interest pose a threat to civilisation. The philosophy of Free Culture, a legacy of the Free/libre and Open Source Software movement, is the empirical proof that a new kind of ethics and a new way of doing business are possible. It has already created a new and workable form of production, based on crafts or trades, where the author-producer doesn't lose control of the production process and doesn't need the mediation of big monopolies. This form of production is based on autonomous initiative in solidarity with others, on exchange according to each person's abilities and opportunities, on the democratisation of knowledge, education and the means of production and on a fair distribution of earnings according to the work carried out.

We declare our concern for the well-being of artists, researchers, authors or other creative producers. In this Charter we propose a number of possibilities for collectively rewarding creation and innovation. Free/Libre and Open Source Software, Wikipedia, and many other examples show that the model of Free culture can sustain innovation and that knowledge monopolies are not necessary to produce knowledge goods. In cultural production, what is sustainable depends to a significant extent on the type of 'product' (the costs of a film for example, are different from those of an online collaborative encyclopedia). Projects and initiatives based on free culture principles use a variety of ways of achieving sustainability beyond the voluntary economy. Some of these forms are consolidated. Some are still experimental. A widespread principle is that of combining several sources of finance. This has the added benefit of guaranteeing independence. Community-driven social economy models are already providing a number of increasingly viable options for sustaining cultural production. These include: non-monetary donations and exchange (i.e. gift, time banking and barter); Direct financing (i.e.: Subscriptions and donations); Shared capital (i.e.: Matching Funds, Cooperatives of producers, interfinancing / social economy, P2P Banking, Coining virtual Money, Crowd funding, Open Capital, Community based investment cooperatives and Consumer Coops); Foundations guaranteeing infrastructure for the projects; Public funding (i.e.: basic incomes, grants, awards, subsidies, public contracts and commissions); Private funding (i.e.: venture investment, shares, private patronage, business investment infrastructure pools); commercial activities (including goods and services) and combination of P2P distribution and low cost streaming. The combination of these options are increasingly viability both for independent creators and the industry. We do not support the way that commercial enterprises use volunteer labour as a strategy for making profits from collectively and voluntarily generated value. We also believe that conglomerates should not be allowed to dominate a substantial part of any section of the market.

The digital era holds the historic promise of increasing justice and of being rewarding for all.

This is the objective of the following proposals:

First of all transparency: there is a need for transparency in enforcement and lobbying activities, including information on who are the authorities in charge of the law's application, the obligatory procedures, in order to avoid the breach of any fundamental rights. The digital tools themselves have the potential to bring about more transparency and openness to politics. For all these reasons, the provision of digital infrastructure and tools must be based on transparent procedures.

2. Legal demands

We have identified gaps that exist in national regulations and international treaties concerning the dissemination of culture and knowledge, both in private, contractual relations and in international public policy. We propose reforms which we believe are necessary to overcome these flaws. These weaknesses of existing regulations and treaties are detrimental to the public interest and to a modern, democratic cultural industry.

In this context, the public interest is best served by supporting and ensuring continued creation of intellectual works of significant societal value, and to ensure all citizens have unfettered access to such works for a wide variety of uses.

A. Knowledge Commons and the Public Domain

1. The expansion of the public domain and contraction of the copyright term (less than 50 years).
2. Publicly funded research, and intellectual and cultural work should be made available freely to the general public.
3. It must be guaranteed that the public domain works are accessible to the general public.

B. Defending access to Technological Infrastructures and Net neutrality

1. Citizens are entitled to an Internet connection that enables them to send and receive content of their choice, use services and run applications of their choice, connect hardware and use software of their choice that do not harm the network.
2. Citizens are entitled to an Internet connection that is free of any kind of discrimination - whether blocking, limiting or prioritizing - with regard to type of application, service or content or based on sender or receiver address.
3. No Internet limitation or filtering should be done without a prior judicial ruling.

C. Citizens' rights in the digital context

1. The RIGHT TO QUOTE for educational or scientific reasons, or for purely informational, creative purposes or any other purpose.
2. PRIVATE COPYING when the reproduction is done for private use or sharing and when no direct or indirect economic profit is obtained from it.
3. FAIR USE: the right to access and use copyrighted works without the rights holders permission for the purpose of education, teaching, scientific research, information, satirical or incidental to the principal creative objective, as long there is attribution and all moral rights are respected.

D. Stimulating Creativity and Innovation

We declare our concern for the well-being of artists and authors. We propose various ways of collectively rewarding artistic creation and innovation:

1. Royalties are not a substitute for a liveable wage.
2. Differences in the bargaining power produce unfair outcomes between creative individuals and commercial entities and must be counter-balanced.
3. When there is commercial exploitation of a work, rules regarding economic rights should prioritize the protection of the economic interests of creative communities
4. The abolition of all unjust "digital levies" which indiscriminately sanction everybody in the name of "compensation for artists" and which attempt to penalize activities that are in no way criminal.
5. Authors/creators shall be able to always revoke the mandate of ROYALTIES MANAGEMENT AND COLLECTING SOCIETIES.
6. No collecting society should be allowed to create monopoly or to prevent artists or authors from using free licenses.
7. Patents that monopolize any kind of software, business method, logic, mathematic algorithm, genetic information or being, industrial procedures, game rules, mental acts, or any other human intellectual development, should be illegal and must not be ever granted.

E. Access to works for persons with reading disabilities

When accessible formats for people with reading disabilities are created under copyright limitations and exceptions, the global legal systems should enable cross border import and export of such works.

3. Guidelines for Education and Access to Knowledge

Learning is a process of social construction of meaning through sharing knowledge, experience and cultural nuances. Culture evolves as knowledge spreads throughout society. We understand education as a social process that involves a wide range of educational actors, technologies, entities and activities, not just the official and formal ones. Our vision of education is to foster a culture of sharing knowledge and educational innovation that is efficient and sustainable, based on the principles of this Charter.

The following paragraphs summarise essential foundations for free cultural development and knowledge creation:

Free/Libre and Open Source Software

Free/Libre and Open Source Software allows people to study and learn concepts instead of black boxes, enables transparency of information processing, assures competition and innovation, provides independence from corporate interests and increases citizens' autonomy.

Free/Libre and Open Source software therefore should be used, promoted and implemented in educational institutions and other places where educational processes take place. Also, all software developed in educational environments with public funding should be released as Free/Libre and Open Source Software.

Open Educational Resources

Educational resources are a basic educational tool; their open publication in the public domain or under a free license, facilitates access, stimulates improvement and participation and provides for cultural diversity, while maximising reuse and efficiency.

Text books, course materials and other kinds of learning materials should be published therefore, as Open Educational Resources that assure rights to use, copy, reuse, adapt, translate and redistribute.

Open Access

Open Access publications assure access to the results of scientific research, for scientists as well as the general public; they boost the possibilities for learning and they enable diverse research disciplines to discover and use each other's results.

Universities and research centres therefore should embrace the Open Access model for the publication of research results. Applications for patents on the results of publicly funded research should be discouraged. Patents held by public institutions should be irrevocably released under royalty-free terms and free of any other restriction.

Open Standards

The use of open standards and open formats is essential to ensure technical interoperability, enable seamless access to digital information, provide a level playing field for competing sellers and ensure the availability of knowledge and social memory now and in the future.

4. Structural requirements for an inclusive knowledge society

A. Privacy

Citizens have the right to:

- be allowed to browse the Internet and access contents anonymously.
- decide at any time to move, modify or remove their user data from any online service.
- not get their communication intercepted and to encrypt their communications.

B. Rights vis à vis networks: Freedom to use, create and connect

- Civil society and public administrations must have the right to provide and implement network services, including those offered for free and without conditions to the citizens.

C. Infrastructure and market regulation

- Neutrality: Net neutrality must be guaranteed (read Glossary of terms and legal demands section C for a precise definition).
- Symmetry: Internet access providers must grant symmetrical connections or a reasonable download/upload ratio. There must be broadband at accessible prices for every citizen.
- Diversity: Monopolies in telecom infrastructures should be prevented. Telecom operators must not be allowed to provide the last mile service together with other telecom services. The same shareholder must not be allowed to control telecom companies that provide the last mile service and companies that provide the other telecom services. No telecom company must control more than 25% of any market service. There may be exceptions to this quota for public-operated networks.

D. Public Administration

- Public sector, publicly funded projects and those that commit citizens by law or in a manner affecting their fundamental rights, should always use free software and open standards.
- When a free solution or open standards does not exist, the government or the corresponding public institution should promote the development of the software needed.
- Governments must guarantee a non-exclusive free Internet access to every citizen independently of its place of residence.

E. The evaluation and purchase of software in public administration

- Public purchases of software must evaluate the total cost of using it, including the costs of stopping using it and migrating to an alternative software.
- Public accounting must clearly separate between the costs of software licenses, maintenance, support and service, and the cost of hardware.

5. Members of the FCForum

- 1 eXgae
- 2 Networked Politics
- 3 Mayo Fuster Morell
- 4 P2P Foundation
- 5 Michel Bauwens
- 6 Consumers International
- 7 Electronic Frontier Foundation (EFF)
- 8 David Bollier
- 9 Knowledge Ecology International / James Love
- 10 Free Knowledge Institute (FKI)
- 11 La Quadrature du Net
- 12 ScambioEtico
- 13 Amelia Andersdotter eurodeputy from Pirat Partiet
- 14 European Digital Rights (EDRI)
- 15 Creative Commons España/ Ignasi Labastida
- 16 Transnational Institute/Hilary Wainwright
- 17 Students for Free Culture
- 18 Free Software Foundation India
- 19 Nagarjuna G.
- 20 John Howkins
- 21 Foundation for a Free Information Infrastructure (FFII)/ Alberto Barrionuevo
- 22 ALQUA
- 23 Isaac Hacksimov
- 24 Dyne.org Foundation/Denis Jaromil Roio
- 25 The Open Standards Alliance/Stefan Marsiske
- 26 David Evan Harris
- 27 David Hammerstein
- 28 Joan Subirats
- 29 Fundación Karisma
- 30 Carlos Sanchez Almeida
- 31 Conservas
- 32 FLOSS Manuals
- 33 David Maeztu
- 34 Josep Jover
- 35 Patricia Vila
- 36 Javier Candeira
- 37 IT-Political Association
- 38 ScriptumLibre
- 39 Felix Stalder
- 40 Franziska Heine
- 41 Dmytri Kleiner
- 42 Anne Ostergaard
- 43 Jack J. Marxer
- 44 Alan Toner
- 45 Roberto Santos
- 46 Asociación de Internautas / Javier Cuchi
- 47 Epidemia / Pablo Ortellado
- 48 Kim Tucker
- 49 La Casa Invisible
- 50 Margarita Padilla
- 51 Guifi
- 52 Mario Pena
- 53 Traficantes de Sueños
- 54 Platoniq
- 55 Yproductions
- 56 Jamie King
- 57 Vittorio Bertola
- 58 Marco Berlinguer
- 59 Universidad Nómada
- 60 ASACC / Carmen Zapata
- 61 REEM
- 62 Toni Verger
- 63 Science, Education and Learning in Freedom (SELF)
- 64 Ignacio de Castro Arribas
- 65 Maria Claudia de Azevedo Borges
- 66 Exit
- 67 CSDVA
- 68 La impròpia
- 69 Josean Llorente

6. Public endorsements

1 Knowledge lab
To be continued...

7. Extended version

The complete version (with more specific information, references, sources and a glossary) is available here:

http://fcforum.net/charter_extended

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