A commons-based foundation of open access and other open models

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A commons-based foundation of open access

or

knowledge is the water of the mind
Content - Topics

➢ Open Access part of a new value system in electronic environments

➢ Open Access – part of knowledge ecology

➢ Towards an understanding of knowledge as a commons

➢ Models for the institutionalization of knowledge

➢ What needs to be done? Transformation processes

➢ Conclusion
Open Access as a new value system in electronic environments

A different view on open access

Open Access is *not only a model for organizing the production, distribution, and usage of knowledge* but is also part of a *new value system* which is being developed in electronic environments.
Information ethics aims at finding out which beliefs, rules and values guide people at any given time in history in producing, exchanging, sharing and using knowledge and information.

Information ethics is based on the concept of knowledge as a commons.

Commons not only the base for information ethics
Open Access part of a new value system in electronic environments

Commons not only the base for information ethics

**Commons** is also the central concept of

knowledge ecology

and in time to come for

markets

and law
Ecology in general is concerned with the sustainability of natural resources (for instance water, air/climate, forests) by protecting these resources from overuse.

Knowledge ecology is also concerned with sustainability but sustainability of immaterial goods such as knowledge can only be achieved by making it open and free open access and unrestricted use.
The concept of **knowledge ecology** and in its context the **idea of open access** provides an **alternative** both to existing **commercial publishing models** on the international information markets and to **international copyright regulations**, which, in the last 20 years, have mainly emphasized the **economic impact of knowledge and information** and thus have made knowledge a scarce resource
Knowledge ecology does not object to the commercial use of knowledge, but suggests that publishing models are only acceptable when they acknowledge the status of knowledge as a commons, allowing free and open access for everyone not reclaiming exclusive property rights.
Towards an understanding of knowledge as a commons
An understanding of knowledge as a commons

What are commons?

Aus: Peter Barnes: Capitalism 3.0
An understanding of knowledge as a commons

What are commons?

Commons

- water
- natural resources
- public spaces
- air/sky
- knowledge

access to water is a fundamental human right

knowledge is the water of the mind

access to knowledge is a fundamental human right
An understanding of knowledge as a commons

What is the status of knowledge?

res nullius
res privatae
res publicae
res communes

Justinian I., Mosaikdetail aus der Kirche San Vitale in Ravenna
An understanding of knowledge as a commons

Who owns knowledge?

producers/authors?

exploiters/content providers/publishers?

users/those who need it for their work?

knowledge is part of the commons – of the res communes

nobody should own knowledge exclusively
An understanding of knowledge as a commons

Who owns knowledge?

is it the right question?

knowledge itself, ideas, facts, theories, ...data

is not protected by copyright laws
An understanding of knowledge as a commons

knowledge is a commons
but only usable when accessible

Who has access to knowledge?
Who controls the access to knowledge?

The question is not one of knowledge but that of information

Who has access to information – who controls information?
Access is the challenge

making it a scarce resource

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Access is the challenge

Knowledge needs to be institutionalized appropriately in order to become a common property.

Open access is a form of institutionalization of knowledge as a commons.
Institutionalizing knowledge as a commons

- sharing
- justice, fairness
- inclusion
- sustainability

Common Pool Resources

- principles
- institutionalization
- procedures

communication (reaching a consensus)
- rules
- commitments
- contracts
- control mechanisms
- sanctions

Commons
Institutionalizing the access to information

- privatization
- enclosure of the mind
- profitability
- scarce resource

**It’s our choice**

- principles
- institutionalization
- procedures

- rules
- commitments
- contracts
- control mechanisms
- sanctions

- sharing
- justice, fairness
- open
- inclusion
- sustainability

access to information
- products
- Services
- systems

Knowledge Resources
Models for the institutionalization of knowledge
Models for the institutionalization of knowledge

(1) Proprietary commercial information markets

- objects
  - trade with information objects

- exclusive rights for the exploitation
  - with the consequence that
    - knowledge is made a scarce good
      - transformation of authors’ rights into exploiters’ rights

- copyright law
- DRM
- contractual agreement licenses
Models for the institutionalization of knowledge

(2) Freeconomics markets – prototpye Google

- Information objects
- search engines
- as
- private property rights
- but
- free use

- profit
- Not by information itself
- but
- using user search profiles for advertisement
- but
- merchandizing cross financing value-added effects

Will SpringerOpen mutate into a freeconomics model?
Usage open/free, copyright remains by the authors – the public finance the production costs and the profit of a company on the information market
(3) Open free markets

Information objects
given for open access
claimed as
personal moral rights
or
given into the commons, directly

non-exclusive commercial exploitation rights
exploitation

possible
default

in the copyright paradigm but free open use
a means of development

Creative commons
Open Access

Models for the institutionalization of knowledge

Proprietary markets
type 1

freeconomics
type 2

Open Access
Models for the institutionalization of knowledge

(4) commons-based information markets

Commons
- air/sky
- water
- natural resources
- the public space
- knowledge

A property of mankind but private rights for exploitation possible and often necessary but only with non-exclusive exploitation rights with sufficient compensation to the public

as long as free access to everyone is guaranteed
What needs to be done?
Transformation processes
What needs to be done? Transformation processes

(1) transforming the **understanding of intellectual property**

**knowledge** as a commons is **not to be considered a res nullius** which can be used ad libitum by everyone for whatever purpose

developing a concept of common property rights

without denying private individual property rights
What needs to be done? Transformation processes

(1) transforming the understanding of intellectual property

knowledge as a commons is not to be considered an exclusive private producers’ individual right nor a commercial exploiters’ right
What needs to be done? Transformation processes

(1) transforming the **understanding of intellectual property**

What was feasible with respect to **patent right** – no longer a professor’s/inventor’s right but now a **right of their institutions**

should be possible with respect to copyright

That means: **overcoming the objections against an institutional mandate**
What needs to be done? Transformation processes

(2) developing a **new understanding and practice of copyright**

Overcoming the systems of exceptions/limitations in copyright

for *science and education* a **generic clause is needed** rather than a set of exceptions

**right to use published information** for any ethically and justifiably purpose in science and education **without asking permission**

(but with reasonable **remuneration**)
What needs to be done? Transformation processes

Art. 5.2—Uses for the purpose of freedom of expression and information

(2) The following uses for the purpose of freedom of expression and information are permitted without authorisation, but only against payment of remuneration and to the extent justified by the purpose of the use:

(a) use of single articles for purposes of internal reporting within an organisation;
(b) use for purposes of scientific research.
What needs to be done? Transformation processes

A generic clause for science and education

A proposal by the Coalition for Action
“Copyright for Education and Research”
2010

Similar:
- The Alliance of German Science Organisations (AvH, DAAD, DFG, FhG, HGF, HRK, MPG, WGL, WR)
- Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany
§ 45b Education and Science

(1) Copying, distributing and making published works available to the public is permitted for personal use in science and for educational purposes in schools, institutions of higher education (such as universities), and other non-commercial institutions dedicated to education, continuing and professional training.

provided that the source from which the reproduction is made is not an obviously infringing copy from a legitimately acquired copy only, e.g. from a library or bought from a commercial provider.
The Göttingen Declaration on Copyright for Education and Research of 5 July 2004

In a digitised and networked information society, access to global information for the purposes of education and science must be guaranteed at all times from any place.
Conclusion

Knowledge is the water of the mind
absolutely necessary for development and cultural survival
as water for the physical survival

Knowledge and its derivative information products cannot
be subject of exclusive private property rights

Production and use of knowledge and its derivative information products depend on commons-based institutionalization forms adequate to electronic environments

commons-based information markets do not make the commercial use of of knowledge and its derivative information products impossible but rather are the realistic chance for the information economy to survive successfully
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