

The Street And The Market

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Double Shot

What follows is a short extract (with some additional material) from an extensive essay, *The Trouble with Poetry: Intellectual Property Rights and the Business of Art*. The essay is available in full at www.creative-economy.org.uk.

... we know from our everyday lives that for most people, and many organisations, the protection of the law is simply out of kilter with the way we live – too costly, too slow, and often impenetrable. IP law is governed by Civil Law and requires the injured party to sue, thereby employing lawyers and potentially spending considerable time and money; much simpler to rely on the ‘rules’ of the Street, the honour code of those around you.

Secondly, and rather more importantly, the reason that the law and the norms that guide our everyday lives can end up so different is because they are there to serve two very different economies. One is the very familiar ‘Market Economy’ where things can be bought and sold thanks to the protections of the law. The other, more exotic perhaps, or at any rate less understood, is the ‘Gift Economy,’ an economy more often regulated by social norms and with quite different incentives for the

creator. Both enable ideas, services and products to be exchanged, but there are significant differences in the way they function.

Not only are there some things we’d rather not sell, there are some exchanges that just work better within a gift economy. Look at commercial blood donor systems: it’s widely accepted that they produce blood supplies of lower safety, purity and potency than volunteer systems.

Or the very foundation of the web itself, the open source coding movement that has created much of the infrastructure we often take for granted today. For this group of programmers the freedom from the needs of the market, and indeed the organisation, has allowed rampant innovation and drawn in a huge number of creative minds, whose incentives are not those of a market economy but are in many ways about the pleasure of giving.

Although both the market and gift economies have been around as long as humans have needed each other, each new technological advance has enhanced the capacity, speed and reach of both and has successively drawn new users in. Most recently the Internet has been a massive accelerator of both systems.

On the one hand all manner of retailers and services have taken advantage of this accelerated globalised-network market economy; on the other new human endeavours like Wikipedia have taken advantage of the souped-up nature of the web-based gift economy.

Now no-one in their right mind would claim that an illegally-uploaded DJ’s radio mix, a young guitar player’s footage of themselves playing on YouTube – represent the very best that culture can ever be. And as flexible – indeed, playful – as the Street can be with business models, it can’t be the answer to *everything*.

Although these worlds are often parallel cultures, sometimes they can co-exist and be utilised by the same organisation. These hybrids don’t necessarily cancel each other out – the market and the gift economies in some form of opposition – but perhaps counter intuitively, they can often thrive together.

If artists, arts organisations and creative businesses remain only in thrall to the market, insisting on the highest protection of the law and its Court, seeking the special treatment they assume their profession is due, they run the risk of becoming isolated from the rest of us, reducing their

opportunities down to only what the market can support. It’s a leading Industrial Age equation – artists as sole supplier and the public as useful consumers. This is a meagre view of the business of art and puts an artificial lid on the accidental, communal and collaborative nature of the web. Instead, the creative sector can look to the Street and ask itself: how can we bridge the gap between the norms and the laws, how can we learn the lessons of the Street and then bring our resources and reputation to bear on them and how, ultimately, might we do much, much better?

One of the chief questions faced by ‘mainstream’ business is what to do about innovation in the light of the crisis. Surely it’s profligate to invest in either formal R&D or ‘soft’ innovation at a time when jobs, working hours and salary rates are being cut? Shouldn’t a business concentrate on its core mission? Isn’t innovation a self-indulgence? Or is this precisely the time to think about new markets, new ways of doing business, new *things* with which to *do* business? Isn’t innovation a way to approach getting out of this situation?

We argue that much of the most innovative work currently being done in the cultural and creative sectors is by the general public.

Business, academia and journalism alike know this. Even the most cursory glance at the business shelves of a modest bookshop should tell you this: each one exploring different facets of the new collaborative culture and how new businesses are being built upon it. Of course, the creative sector isn’t the sole focus of these books, but it features prominently and in any case, many of the very innovations that have facilitated the flowering of the Street’s activity have come from this world.

Put bluntly, you can’t guarantee that your organisation owns all the best practice, knows the right knowledge and is the most forward-thinking in your business area. In fact you can pretty much guarantee that it isn’t. And yet if you look only to the Court for guidance you may very well be prevented from learning lessons of the Street by laws which, if not originally intended for the sole protection of business, have certainly become to be perceived that way – especially by business.

Yet there’s a very real danger that the current financial and economic situation will lead to a further tightening of the laws and practices around IPR. This is understandable; a desire to maximise profit – or at least minimise loss on

the part of big businesses in particular will be profound right now. And, indeed, as we write the European record industry is pushing hard for an extension on copyright in sound recordings from 50 to 95 years.

So it’s understandable but we think, mistaken. And very short termist. At the point when the international political discourse is about a *new* New Deal, about the investment of vast amounts from the public coffers into infrastructure works from which we might see no direct benefits for years (but with any benefit thereafter lasting potentially for decades) it would be grievous for the creative industries to look only to the next balance sheet. Nothing we’ve discussed here is denied by the crisis: rather, it’s exaggerated. The benefits of an open culture are clear: the speed of ideas transmission, the harnessing of what Clay Shirky terms ‘cognitive surplus’, the sure bet that the ideas *out there* are superior to the ones *in here*. These benefits needed to be unlocked, brought into the mainstream and unshackled *now*. If anything, the crisis *demand*s it. ■