

I made notes at the concluding session of two-day [The Future of Intellectual Property](#) conference, organized by the Goethe Institute Brussels. The conference on Friday was attended by 150 people (mostly EU and IP professionals, I suppose). Andy Pratt, geographer and creative industries researcher at the London School of Economics opened his presentation saying “When I hear the word creative industries I reach my gun.” He asked: who is going to argue against creativity? The term creative industries causes all sort of trouble. The first item of the incoming Labour government in 1997 was to define new terms and territory. This is what they did but the concept was taken in a whole other direction. The original idea was to emphasize the contribution of creative forces to the economy. However, local definitions around the world vary to a great extent. What we need, according to Pratt, is a reality check. Just think of the license used by publishers of academic journals that force authors to sign away all their rights, forever. Or think of the precarious working conditions under which this growing ‘creative class’ has to work. These workers do not pay pensions. Imagine what consequences this will have when they retire.

In my contribution I emphasized the necessity to deconstruct the ideology of free and open that presents itself as a luring alternative to the old school IRP regimes. The Californian ideology, launched in the early 1990s is still the dominant hegemonic force. Why? Because the babyboom public intellectuals have refused to engage with the Internet because it was either too technical or too marginal for them. Most of the opinion leaders thought the Internet was merely a hype, a fashion like mini skirts that was nice at the time but bound to disappear. The deeper cultural subcurrents that drive networking and digitization therefore remain misunderstood. The natural response of the cultural elites are one of outrage against piracy, calls for policing and repression of the downloading youngsters and an (unspoken) envy towards those who did see the business opportunities. It is a sign of the times that the liberal establishment lines up with media corporations and the “moral majority” in an attempt to “civilize cyberspace”. Instead of further promoting “free culture” I called for sustainable models for independent content producers. Code words here would be micropayments inside peer-to-peer networks, cultural flat rate, citizen-to-citizen loans and gifts, and more commercial concepts such as crowdfunding and the ‘freemium’ model in which payment finally becomes a possibility with the free and open no longer the only option.

Juan Carlos De Martin of Nexa and Creative Commons Italy did not believe

that “the system works.” Neither is Internet “a free for all.” De Martin appealed not to blame the Internet for everything. Journalism is in crisis, but the Net is only one of many contributing factors. The Internet offers amazing potential for culture. DRM is wonderful, as is data mining of user profiles. Or think of a reinvention of the public domain. Next was Joost Smiers, professor emeritus at the Utrecht School of the Arts and co-author of the upcoming “Imagine there’s no Copyright”. Copyright is a form of censorship, says Smiers, pushing aside cultural diversity. Copyright gives a lot to a few, thereby disturbing the markets, in particular when we speak about the arts. Now only a handful of companies control the means of production and distribution. The abolition of copyright was presented as a utopia that needed further research. For Smiers Creative Commons (CC) was not a solution as it did not question the copyright system as such. CC didn’t discuss the monopolies and emphasizes solely on sharing, ignoring how artists are going to make an income. De Martin responded to this criticism pointing at the CC-Plus license that made it possible to pay the artist or intermediate. CC was an optional choice.

The discussion that followed was lively for Brussels standards of a sunny Friday afternoon. Following chairman Volker Grassmuck’s guidance each panelist briefly sketched their worst and best scenarios. All agreed that was a need for public debate. Serious discussions need to happen. Someone remarked: “Your proposal is my worst nightmare.” From a few such remarks I sensed that the proposals of this panel, ranging from modest reformist to radical, were over the top for the lawyers and representatives of the collecting societies. To put it blunt: everyone who is criticizing today’s corporate control is a Stalinist. Not because of their dogmatic marxism but because every utopian proposal, by its very nature, will end in Gulags and Holocausts. The fact that the current situation is a nightmare for millions (just think of the patenting of medicines that could save so many lives) is not taken into account here. Like many authors I never benefited from the current copyright system. Technologies such as the iPhone were fantastic. There was no need to rethink copyright. It was at this point that one could smell some very real conflicts of interests touching the surface. It was time to head back to Brussels Central, to catch the train back to Amsterdam.