

The Linked Content Coalition - a new Approach to the Management of Copyright on the Internet

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Mark Bide, Rightscom: 24 January 2012

I have enjoyed what is sometimes called a “portfolio” career, and still wear a number of different hats. I was in the distant past an academic publisher. I am (as I have been billed for this conference) the Executive Director of EDItEUR – a trade standards organisation that develops and maintains technical standards for the global book and journal supply chains, the mechanisms which support e-commerce and on which the entire distribution system depends.

Nobody except specialists cares very much about metadata and identifiers. Not for nothing does my friend Norman Paskin, who runs the International DOI Foundation, refer to our common area of activity as the building of “killer plumbing”. Nobody cares much about what we do, until it goes wrong or perhaps more to the point it no longer meets the requirements of a changing environment.

Then sometimes people are pleased that a killer plumbing service exists.

So, I am going to talk to you about standards, but from a different perspective from the EDItEUR one. As well my work for EDItEUR, I have since the early 1990s been a consultant to publishing and the wider media industries, and increasingly over the last ten years my focus has been on the management of intellectual property – or at least copyright – on the network.

It is technical standards that link these two worlds of metadata and copyright together in my working life, as I will explain.

The project I am going to talk about today is called the Linked Content Coalition, and it is a project on which I have been working on behalf of the European Publishers Council (EPC) for the last 18 months. EPC is a grouping of large media organisations from across Europe, all of whom have newspaper publishing interests; many are also television broadcasters; some have academic book and journal publishing interests in their very extensive portfolios.

All have brands that are well known to everyone here.

I am going to speak to you today about a project that is not specific to academic publishing, not even to book and journal publishing. Our aim in this project is to provide the killer plumbing for the *copyright* supply chain across all parts of the media.

So that's where I begin.

It is hardly a secret that, in the era of the internet, it is increasingly difficult to maintain successful businesses which are dependent on copyright.

This is also no mystery. The ability to make perfect copies and to distribute them instantaneously to over 2 billion people – the 30% of the world population who are now classified as internet users – has irrevocably changed the copyright industries – those industries we also sometimes call “the media” or perhaps more clumsily the content industries.

This is no bad thing. The barriers to becoming a publisher – in the broadest sense of that word, “someone who makes something creative public” – or

indeed to becoming a self-published author or creator of any kind – have largely disappeared.

We can all be published authors or composers or performers or film directors now.

No one can – or at least no one should – object to this. The democratisation of mechanisms for publication and dissemination brings with it huge benefits. But alongside this, we have seen the steady erosion of any capability of making a return on investment from the creation and dissemination of content.

Business models in the media have – almost without exception – been entirely dependent on copyright for over 300 years; copyright has been the mechanism that has provided the rewards for creativity, which has in one way or another has allowed creators to benefit alongside society as a whole. That solid foundation has enabled the development of a diverse and creative media from which we all – individually and corporately – benefit.

Despite the common caricature of the traditional media as dinosaurs who are desperately trying to hold onto a lost past, in reality all parts of the media are embracing their digital future. Some sectors have certainly been temporarily wrong footed not just by the sudden and dramatic shift in technology but also by aspects of the law.

Copyright law, while remaining for the most part fit for purpose, has been made less effective by interventions such as the DMCA and the eCommerce Directive; these have made certain infringing business models viable with almost complete impunity.

Equally, though, it must be acknowledged that attempts to resolve these issues through legal remedies – like the apparently now moribund SOPA and PIPA efforts in the United States – have appeared to carry the argument too far in the other direction, particularly in their disregard for due process.

There is a difference between those who object to SOPA and PIPA on this basis and those who object because they believe that they have some sort of human right to watch movies for nothing, that someone else should pay.

However, I don't want to be too distracted by this argument.

Let us return to thinking about the media ecosystem on the internet. Because, while economic and distribution barriers have come dramatically down, apparently creating many new opportunities, the entrepreneurial response you might have expected to occur among media businesses has been muted by the double-whammy of technology and the law, both contributing to the foundations of copyright businesses being undermined.

Complete disregard for copyright on the internet has become so commonplace as to be unremarkable, something we may rarely admit to doing ourselves but embarrassedly admit is all too common among our children or grandchildren.

But it isn't simply individuals who disregard copyright; whole sectors of business have developed on the internet whose entire business model is dependent on turning the principles of copyright on their head, of moving from a permission culture to one that at best offers a limited power of opt out and take down.

Nevertheless, the overall response from the media has been positive and creative. And with this response has come the recognition that – on the network – rights rather than content are the unit of commerce. Publishers trade no longer in physical objects but in rights of access and use.

As a result, we now find ourselves in a position where making investment in creating content on the internet looks pretty much a mug's game. Investment in exploiting other peoples' content is a much better bet. On line, the best profits from content are made by those who make little or no investment in content creation, and accept none of the risks and liabilities associated with what it has always meant to be a "publisher". They leave that to others – the mugs, whose online content creation continues most often to be subsidised by revenues from their traditional – off line – activities.

At the same time, legislators, under pressure from those who tell them that copyright is somehow old-fashioned and Luddite, seem increasingly inclined to go even further in weakening copyright law. The media are told they must seek "new business models" that do not depend on copyright – but these have consistently proved elusive outside some specialist areas.

Unless we find a way to turn back this tide, professionally-created content of all types will inexorably become increasingly rare, particularly on line. Our challenge is simple: we have to make investment in content pay again for

creators. If we don't, there will be no investment. This will be massively impoverishing of our culture and our society.

However, I don't want to sound as if I believe that all is lost. I would argue that, what we have seen is not a failure of copyright but rather a failure of technology, or perhaps of technological implementation. Bringing the ordered structure of copyright back to the chaotic world of the internet does not require wholesale change in copyright itself (although doubtless there is a constant process of updating required); rather it lies in finding more effective ways of implementing copyright in this relatively new environment.

To quote the late Charles Clark, adviser to the publishing industry in the latter years of the 20th Century: "the answer to the machine is in the machine". If we can make rights management and rights clearance work effectively at the machine level, everyone will benefit. Consumers will get what they want. Authors and their media partners can get a fair reward for their efforts – and we can continue to develop an effective and competitive online supply chain which also profits from its use of content.

So we must find ways of making technology work as well for us in the management of copyright as it has in managing other aspects of the immense complexity of the internet.

The internet is not the end of the media, it is a massive marketplace.

Technology should not be seen as the enemy of the media; it has the potential to be a great facilitator.

I'm not talking about "Digital Rights Management" – or "technical protection measures" – although well-implemented technology to enforce rights almost certainly has some part to play in the future.

Rather I am talking about the "digital management of rights" or perhaps the "management of digital rights". We need to be able to communicate effectively about rights; communicating to end users, communicating within supply chains and making it possible to build automated ways of transacting in them.

I should for this audience make it plain that the word "transaction" does not always equal "paid for". Every transaction on the network is a transaction involving implicit or explicit terms of access and use. Any term of use – even, for example, simple attribution – is dependent on information. This is not a mechanism that should be designed simply to support incumbent big media businesses – it critically needs to support all creators – unless their creations are to go completely unrewarded and unrecognised.

I will offer you one certain prediction about the future of the internet in the next decade. In much the way that it has become a pervasive human-to-human communication environment, it is set to become an equally pervasive machine-to-machine communication environment. This is sometimes (although I think probably erroneously) called "Web 3.0". I am not convinced this has much to do with the World Wide Web.

The revolution implied is on the same scale though as the development of the World Wide Web as a publishing medium, and subsequently the development of Web 2.0 – social media, and the engagement of us all in the creative process.

We are still in the early infancy of this development of the machine-to-machine internet. But it is clear that standards for unambiguous identification and description will play a key role in its effective deployment – particularly in a field like automated rights management, which is intolerant of ambiguity about (for example) who controls rights – or even more importantly who should be paid for their use.

Much work has already been done in developing relevant technical standards in different sectors of the copyright industries – but these have been isolated in silos. As all the different sectors converge on a single distribution channel – the internet – we need to find ways of working together much more effectively.

Users care little about which sector we think we work in – these distinctions are becoming increasingly difficult to define.

This is why – with the support of the Information Society Directorate of the European Commission – the European Publishers Council is drawing together a diverse group of partners to launch a cross-media project this year called the Linked Content Coalition, with a view to building the necessary foundations of a standards-based rights information infrastructure, to allow existing trade standards organisations from across the media to learn from each other and to work together on issues of interoperability.

Is this a complete answer to the challenge to copyright on the network? Of course not. But it is at least part of the answer, necessary but not sufficient, just one element of the infrastructure needed to facilitate the creation of a voluntary but effective market for rights on the internet. Completing the task will take a long time, and will involve substantial investment on the part of the

copyright industries and some investment on the part of individual creators. But I am convinced that this is a task worth undertaking. Our culture is built on creativity and creativity is built on copyright.

We have already seen enough of the damage that a faulty internet does to the creative industries to know that continuing on this path will lead to less media, which will leave end users – you and me – very much the poorer.

We know that copyright is worth protecting because we know how much economic, social and cultural good springs from it. We also know that small changes can produce dramatic turnarounds. We are working on one small change with massive possibilities. During the next few years, I hope to see the internet deliver – finally – on its tantalising potential to create a new army of content entrepreneurs and content products for us all to enjoy.

Lord Macaulay, speaking towards the end of the 18th century, said:

We must take care to guard against two extremes equally prejudicial; the one, that men of ability, who have employed their time for the service of their community, may not be deprived of their just merits, and the reward of their ingenuity and labour; the other, that the world may not be deprived of improvements, nor the progress of the arts retarded.

This is as true today as it was in 1786.

Mark Bide: delivered 24 January 2012