

# Visions of the Information Society

## Information wants to be free<sup>1</sup>



### EXECUTIVE SUMMARY

Much of the discourse surrounding the 'Information Society' is inadequate for developing a deeper understanding of this society and the role of information in it, either because it assumes that information is only now taking a central role in society, or because it assumes that the social and economic changes currently being experienced are the inevitable consequences of new information technologies. In fact, information and communication have always been at the core of human society, and while technology is playing a role as *catalyst*, the true dynamics are much more complex.

In this paper we explore the role of information (and of *communication*, to which it is inextricably linked) as the central element of two basic pillars of all societies: **the means by which we encourage and promote creativity and innovation**, and **the means by which we build and sustain social and political interactions and institutions**.

For the first pillar a core question for every society has been how to cultivate and reward the creative spirit while at the same time ensuring that the fruits of that creativity are available for all of society. First emerging in industrial capitalist societies of the eighteenth and nineteenth centuries, and more recently being codified in international agreements, intellectual property rights (IPRs) are at the core of a system intended to strike a balance between private ownership and public use of information. At their essence, IPRs are an economic tool, granting inventors, authors and publishers limited monopolies to exploit their creations before they are released into the public domain where they are freely available for use by all.

The second role of information is the role it plays in the shaping and operation of the social and political institutions that govern societies. Key issues here are the rights people have in relation to accessing, using and communicating information and knowledge. Among these are free speech, freedom of the press, freedom of association and the right to privacy, all of which underpin other rights by freeing information from the barriers and constraints of secrecy, by stimulating transparency and the open exchange of ideas, and in some cases to limit the freedom to access certain information that leads to a diminution of other rights. While the roots can be traced further back, key moments in the industrialised world of the eighteenth and nineteenth centuries once again

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<sup>1</sup> Copyright © ITU (International Telecommunication Union) 2003. This paper was written by Seán Ó Siochrú and Bruce Girard, independent consultants based in the Netherlands, and is one of six ITU *Visions of the Information Society* papers. For more information, go to [www.itu.int/visions](http://www.itu.int/visions). The full paper will be made available in the spring of 2003.

played a role by establishing the framework for representative democracy, which cannot exist without the communication rights and freedoms that enable a vigorous public sphere.

From roughly the middle of the twentieth century the production and reproduction of information became 'turbo-charged'. Innovation followed innovation, each presenting new challenges to the delicate balancing mechanisms worked out in previous centuries. New technologies and new media appeared and, facilitated by the advent of digitalisation, began to converge. The media proliferated and rose in sophistication: publishing, cinema, music, radio, television, video, DVDs, the Internet; new technologies mixing with old and adding to the value of copyright and the economic influence of the media. At the same time, the new media technologies also exposed new vulnerabilities for the industry, making it increasingly easy to copy and distribute content and thus increasingly difficult to prevent copyright violation.

### **Rise of Copyright Industries**

But the changes were not only technological and the same period has also been marked by the rediscovery of the ideology of the unfettered markets and globalisation and the dominance of global media and communication corporations. Inevitably the rules and regulations governing copyright were swept into this vortex of growth. The copyright industries sought and obtained the extension of their monopolies in two ways: by having the length of time they could exercise those monopolies extended, and by standardising international copyright regimes at levels beneficial to the main global corporations located in industrialised countries. The latter involved moving much of the responsibility for international regimes out of the World Intellectual Property Organisation (WIPO) and the UN Conference on Trade and Development (UNCTAD) and into the World Trade Organisation (WTO) in the form of the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The transfer of responsibility to the WTO had a number of other benefits for the global copyright industries, including giving them access to the WTO's powerful international enforcement procedures and very significant penalties.

The battle is by no means over yet. Copyright industries have not succeeded in every endeavour and a significant lobby has emerged around sustaining the creative potential of the Internet, the highest prize, against a wide range of efforts to impose onerous copyright and other restrictions in order to maximise short term commercial gain.

### **The Public Sphere, Information Rights and the Media**

During the same half century, the media have adopted an increasingly important public role. While the public sphere is comprised of many non media fora, the media are increasingly important and are one of modern society's most important institutions, exercising influence in virtually all aspects of social and political life as one of the primary ways by which we learn about and interact with the world and with each other.

During the immediate post second world war period the international climate was conducive to the internationalisation of human rights, including information, communication and cultural rights. While not without setbacks and exceptions, the period saw a general decline in the political control of the public sphere and a rise in individual and collective freedoms. However, by the 1970s other forces came into play, with technology once again taking the role of catalyst and enabler. During the last few decades liberalisation and private ownership of the media has become the dominant model.

In the United States and countries which had traditionally adopted private ownership, liberalisation has gradually eroded both public service obligations and restrictions on concentration of ownership and cross-ownership of media. By the 1980s Brazil, Argentina and Mexico all had greater

concentration of ownership of the media than the USA, where three national networks accounted for over ninety percent of viewership.

In the EU liberalisation was accompanied by a decline in the public service media and an increasing presence of private media. The mixed model remains, but there is a notable slide in the direction of a minimally regulated market-based model.

In much of the rest of the world, including the global South and Eastern Europe, early aspirations of a public service model were dropped in favour of a predominantly private sector model, although often with direct or indirect government control.

At the international level, portable technologies facilitated the prising open of new markets for the video and recorded music industries. Satellite broadcasting and the Internet continued this trend of expanding global markets for media products. Meanwhile, the convergence of media and the rise of cross-ownership in the USA, Europe and Japan enabled the emergence of a handful of multimedia giants with access to capital and to economies of scale and scope that allowed them to dominate these global markets. Also at the international level the extra-territorial nature of much global electronic media (including satellite television and the Internet), and the inability to reach any agreement on their regulation, have left few policy options available to governments wanting, for example, to support the development of national media. There is a growing governance vacuum in which governments are excluded and market studies are the only form of public consultation.

## **A Current Balance Sheet**

In recent decades the balance of IPRs has tilted in favour of private ownership – well beyond that which might be reasonably regarded as required as an incentive – with grave economic, cultural and educational consequences that threaten development and have severe implications for ongoing innovation. The understanding of copyright has shifted from its founding idea of granting a monopoly right tolerated by the public as a reward and to encourage creativity, to one where copyright is an asset held virtually in perpetuity. Concern for balance between private ownership of intellectual property and the public domain has all but disappeared from the mainstream debate.

In relation to the public sphere and information rights, concentration of ownership and cross-ownership have resulted in economies of scale and helped optimise profits, but this has been accompanied by reduced diversity, limited cultural specificity, and fewer real choices as all content is subjugated to commercial imperatives. Beyond this, however, we also see the spectre of a more intimate convergence of media and economic interests and reduced checks and balances on the media, matters of serious concern, since they are at the very foundation of representative democracy.

More significantly, we argue that a further characteristic is appearing that sets the current era apart from the past and that may have major consequences for the future: the two pillars of social norms on information – copyright and the public sphere – are increasingly coming into conflict. The depth and breadth of the copyright regime has reached such a point that it is not only questionable from an economic and development perspective, *it is also in danger of undermining the public sphere, and hence the system of representative democracy.*

Our conclusions and proposals for the way forward cover both long term goals and a series of practical actions. The WSIS has a role to play in both.

As a long term goal, the WSIS can be the platform from which to launch a **comprehensive review of copyright with the goal of realigning it with its intended purpose** of striking a balance

between rewarding creativity and ensuring that information and knowledge circulate freely for the good of all. Secondly, the WSIS can be the platform from which to launch a **Declaration on the Public Sphere and Information and Communication Rights**.

In terms of short term action, we propose a number of practical initiatives that could be put forward by the WSIS as a contribution to democratising copyright and sustaining and expanding the public sphere.



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