

The EU and the Commons: A Commons Approach to European Knowledge Policy



Executive Summary

 HEINRICH BÖLL STIFTUNG
The Green Political Foundation



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Commons Network promotes access to knowledge and other social and ecological causes from the perspective of the commons. We are a non-profit organization and think-tank that engages in policy formulation as well as public debate, promoting the common good through commons-based solutions. We cooperate with civic initiatives, translating ideas and concerns into broader policy initiatives.

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Commons: - Shared resources governed by a given community.
- An ethical perspective that emphasizes ecological sustainability, equity and participation.

Common goods: Goods that benefit all people in society and are fundamental to people's well-being and every day lives, irrespective of their mode of governance.

A Commons Approach to European Knowledge Policy

Thanks to the Internet and scores of new digital technologies, the past two decades have seen revolutionary changes in economic production, much of it stemming from unprecedented new forms of collaboration in the creation and sharing of knowledge.¹ The sharing of useful knowledge brings significant economic, social and environmental benefits, allowing people to have access to valuable knowledge goods, to participate and to exercise their democratic rights.

Unfortunately, many of the economic and legal structures that govern knowledge and its modes of production – not to mention cultural mindsets – are exclusionary. They presume certain modes of corporate organization, market structures, government investment policies, intellectual property rights and social welfare metrics that are increasingly obsolete and socially undesirable. The European Union therefore faces an urgent challenge: How to manage knowledge in a way that is socially and ecologically sustainable? How can it candidly acknowledge epochal shifts in technology, commerce and social practice by devising policies appropriate to the current age?

Such a shift is important if the EU is to assure the vitality of its scientific research, enhance social wellbeing, as well as maintain its economic position in the world. Policy structures have to enable ordinary people to freely access and share knowledge and reap the benefits of collaborative technologies. Without such legal rights and practical capabilities, Europeans will not be able to act as sovereign democratic citizens in the face of powerful large state and corporate institutions. In this sense, EU policies for knowledge-creation and sharing have profound implications for well-being, human rights and social justice.

To be sure, the European Union (EU) embraces the idea of the “knowledge economy” as an area of competitive advantage; its Lisbon strategy declared the EU’s ambition to become ‘the most competitive and dynamic knowledge economy in the world’. Paradoxically, this ambition is undercut by the EU’s fierce commitment to expanding intellectual property rights (IPR) and enforcement, which often undercut the great competitiveness and innovation unleashed by collaborative knowledge-creation. Indeed whether these policies are serving the purpose of fostering innovation is subject to debate while enclosing knowledge has led to high costs for society and the exclusion of many from accessing knowledge goods. The lack of access to medicines and a weaker dissemination of climate change technologies are prime examples.

¹ By “knowledge,” we refer to “all types of understanding gained through experience or study, which includes scientific, scholarly and indigenous knowledge as well as music and the arts.” (Elinor Ostrom and Charlotte Hess, *Understanding Knowledge as a Commons* MIT Press, 2007).

EU policies generally focus on the narrow benefits of IRP-based innovation for individual companies and rely on archaic social wellbeing models such as GP growth and narrow outdated models of human motivation. The EU has failed to explore the considerable public benefits that could be had through robust, open ecosystems of network-based collaboration. For example, the EU has paid little serious attention to the enormous innovative capacities of free, libre and open source software (FLOSS), digital peer production resulting in for example Wikipedia, open design and manufacturing, social networking platforms, and countless other network-based modes of knowledge creation, design and production.

Additionally, much of the EU's public investment in research and innovation does not sufficiently take into account the public interest. With the exception of recently adopted open access publishing requirements and some proposals towards open science, it uses public funds to subsidize proprietary technologies for example in health or environment, while scanting on the larger payoffs that could result from public investments in knowledge that remains a public good available to all.

Within this context, the fate of the Internet as a central gateway to knowledge and information must be a primary concern. The Internet is a foundational infrastructure of our time. It is therefore worrisome that large private actors are increasingly laying claim to this indispensable public infrastructure and cultural space, while public policies that would assure net neutrality are defeated. These developments are threatening the future of democracy and open society as well as innovation and competition.

The commons perspective, as a new framework for understanding knowledge,ⁱ can contribute to some important, long-overdue EU policy discussions. The commons embraces knowledge as a shared resource and its management a joint responsibility. It points towards policies that facilitate equitable access to and the sustainable management of knowledge. Rather than a narrow focus on intellectual property or economic value alone, the commons approach requires us to attempt a more comprehensive understanding of value and policies that serve the common good. Commons thinking takes a community and ecosystem perspective, placing issues of stewardship, social equity and long-term sustainability at the forefront of policy. With the commons paradigm, we aim at going beyond a purely individual rights- and market-oriented worldview: the very perspective that many consider to be at the root of current economic and environmental crises. Instead of conceiving of society as a mere collection of atomized individuals principally living as consumers, commons thinking points to the reality of people's lives as deeply embedded in social relationships, communities, histories, traditions and nature.

As such a commons approach embraces the new opportunities for civic participation, nonmarket self-provisioning and reduced inequality as well as greater de-centralized innovation. The perspective points towards policies that for example favor open sharing of knowledge and alternative incentive models that could make medicines far more

affordable; generate more useful, localized environmental knowledge and technologies; and facilitate more copious knowledge transfers to a Global South struggling to meet basic human needs. The compelling logic, benefits and ethic of a commons approach to knowledge, could improve policy in certain areas such as health, the environment, science and culture, and the Internet.

Here Come the Commons

Given the social and environmental needs that could be more easily met through greater sharing of knowledge, the EU needs to ensure that knowledge is accessible as a public good (if not as commons), especially in the fields of health, environment and education. It also needs to protect against centralized corporate control of our knowledge infrastructure, and assure that the entire ecosystem of knowledge-production and distribution remains open and decentralized. There must be the structural space and legal protections for quasi-autonomous knowledge commons to thrive.

The agenda is clear and extensive: more nonexclusive and socially responsible licensing, open innovation programs, strong net neutrality rules, the decentralization and democratization of infrastructure, open data policies, a science commons infrastructure, and trade policies that promote knowledge sharing and technology transfer, especially for ecological needs. An agenda at the EU level to expand the knowledge commons might include:

- **Non-exclusive licensing.**

The EU should favor those forms of licensing for research that generate the highest possible social benefit, particularly when public funding is involved. Socially responsible or non-exclusive licenses on patents would enable broader, less expensive access to biomedical innovations as well as immediate follow up innovation by competitors. Another priority for which the same logic holds is the sharing of knowledge for green technologies to fight climate change. Mandatory open-access publishing rules and the use of Creative Commons licenses will also accelerate knowledge sharing.

- **New policies and institutions that support knowledge commons**

In light of the considerable benefits of collaborative sharing, the EU should develop new policies and types of institutions that support durable knowledge commons. Support for alternative incentives for biomedical research such as prizes, dissemination of green technologies, the use of patent pools and data-sharing, could also require new legal design, funding and the establishment of international frameworks.

- **A halt to the further enclosure of knowledge through additional intellectual property protection**

The EU should refrain from further adding to the imbalance between excessive IP

protection and knowledge sharing for the common good; by not i) adopting misguided trade secrets regulation, ii) enacting upward harmonization of IP through trade agreements and iii) exporting of unbalanced norms to third countries through trade agreements

- **Multilateral treaties or Conventions that promote common goods**

Instead of using multilateral treaties solely to promote market exchange of private knowledge goods and the enclosure of knowledge, the EU should support proposals designed to invest in R&D and promote knowledge sharing among countries. This could produce enormous social benefits by expanding global knowledge commons. This could be particularly important within the international climate change discussions.

- **Policies that recognize the Internet as infrastructure and Public Space**

Net neutrality regulation is one obvious way that policy can assure universal and affordable access to the Internet as a basic human right. Open standards for software and technical protocols are another way to treat infrastructure as a commons, spurring competition, better government procurement and greater democratic accountability. EU policy should also address issues of ownership of data, the role of the market on the Internet and the commodification of users.

We stand at a crossroads between a backward-looking regime of proprietary policies based on archaic economic models – and a burgeoning new system that respects the power of innovation and social practices in open networks, inviting us to make the most of an emerging world of knowledge commons. EU policies can help to strengthen the relevant social, cultural and environmental work of tens of thousands of "knowledge commoners"- networks of innovative communities- around Europe. They are part of the structural environment that enables society to fully reap the benefits of knowledge sharing and collaborative production.

Let's not miss this opportunity.