

Zoetropes and Nickelodeons: A response to OFCOM's Public Service Publisher proposal.

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At Rufus Pollock of the Open Knowledge Foundation's command ('It's your civic duty!') I decided to accept an invitation to the riverside HQ of OFCOM, the UK's independent regulatory body for television, radio, telcoms and wireless, to participate in a discussion about what the UK's putative 'Public Service Publisher' (PSP) should be.

It seems that OFCOM recently noticed the Internet and decided that some kind of public service intervention was necessary beyond BBC online's existing offering. Projecting a budget of 100M, they embarked on a consultation process led by Andrew Chitty of 'convergent media' production company Illumina Ltd. (<http://www.illumina.co.uk>).

The room at OFCOM's London Bridge offices was populated with execs from Yahoo, Google, and various Internet Service Providers (ISPs) as well as institutional players like the British Film Institute and the BBC. I think I was the only person there not representing a large corporation of some sort. I worked out what my civic duty was going to be when the 'creative' director at Wanadoo suggested that the PSP's 100M budget should be given to the telcos and ISPs for their wonderful PSP-like job of carrying peer to peer network traffic, and nobody batted an eyelid. I spent the rest of the day desperately clawing the discussion back to what the 'public service' bit could mean.

While reading through the consultation website (<http://www.openmedianetwork.org.uk>) and skimming the full consultation document:

<http://www.ofcom.org.uk/consult/condocs/pspnewapproach/>, I was pleasantly surprised to see that heavily watered-down mention was made of non-restrictive IP models:

"...it is unlikely that restrictive IP models will maximise public value in a way which is consistent with the overarching thesis of the paper, namely that new forms of public value can be found in the participatory media environment which are distinct from those in the traditional world of linear broadcasting."

Whew! For the first few pages I really wasn't sure we'd even get that far.

Reading through the wordy reiterations of the BBC and OFCOM's mission statements in relation to one another and the Internet, I was also pleased to see a mention (however vague) of the Creative Commons concept (<http://creativecommons.org>).

Unfortunately, this is diluted in a load of projects bunched together in the 'already-out-there' section: <http://www.openmedianetwork.org.uk/alreadyoutthere/>. The strange groupings of web sites there set my alarm bells ringing, headlining narrowly UK-focused, mostly government-funded sites of dubious popularity and quality while relegating Wikipedia and Flickr to footnotes in the 'other links' section of the 'User Generated Content' category alongside (bizarrely) Ebay and the Human Genome Project.

In this blurry segue into a list of web sites, it became clear that the decision had already been made to turn the PSP into a funding agency that gives money to people to make

British 'new media projects' - presumably with the overarching aims of 'educating' and 'entertaining' the 'public'.

What I was really hoping for was a bit of strategic thinking: thinking that might actually recognise that the Net and the emerging universe of electronic devices that people use to communicate, create and use networks, and on which people build their own platforms is an *infrastructure*, not a fairground.

I was glad to see that one comment I'd made about these sites had made it into the report:

"What we see now are the equivalents of the 19th century end-of-the-pier zoetropes and nickelodeons, but somewhere in there is the new cinema".

What a pity that it hadn't been understood at all.

Deep breath.

'Cinema' is not a project. It is a complex and interlinked infrastructure, that was only allowed to develop because of the difficulty Edison Laboratories would have had in patenting the Kinetoscope in Europe. This was partly because Edison had borrowed from prior British inventions. In fact, it was two British inventors: Birt Acres and Robert Paul who extrapolated the Kinetoscope into the first 35mm camera - which they never managed to patent effectively. This didn't stop a war raging over patents - led by the Pathe Freres company in Europe and Edison's Motion Picture Patent Company (a.k.a. the 'First Oligopoly') in the US, patenting and controlling technological development, owning cinemas and developing monopolies throughout the industry. The judiciary of the US - through public interest patent-busting and anti-trust suits - finally broke the First Oligopoly in the early 1910's, only for others to form, consolidating the power of the Film and global mass media industries in Hollywood as the Independent Studios and their star system emerged in the 30's, leading to intense vertical integration of the whole film industry.

The British Government's attempted intervention in this consolidation process was the 1927 Cinematograph Films Act, which put a quota on British Films being shown in UK Cinemas - leading to overproduction of low-quality low budget 'quota-quickies' in the run up to WWII, which put the final nail in the coffin of the British Film Industry. It's been interestingly pathetic since then.

So the question is not which of these 'projects' is the next cinema? The question is - what underlies these projects? Who are the Edison Labs and Pathé Frères, MGMs, Paramounts, Foxes, RGOs and Loews of the Net? Who is defining and owning and shaping how the Net is used, understood and extended?

These days, it looks like the search engines. The Googles, the Yahoos, the information associators who have a semantic stranglehold on the Web and increasingly on other parts of the Net. This is not to mention the infrastructure owners: the DNS demagogues, the backbone bonapartes, the people who can hit the 'off' switch or start metering access to their network territories.

But what could a Public Service Publisher do about this? Surely it's in the public interest to address the fact that the infrastructure we're all using to do business, publish, and socialise online is dangerously similar to Cinema's vertically integrated Hollywood-centric oligopolies?

Clearly, the PSP is going to do absolutely nothing:

"A further key role for the PSP would be in ensuring that search mechanisms for its content - and conceivably for all public service media content - become as efficient as possible. This would never extend to the development of a search engine, but it would involve working with search engine specialists and the major global and local players in search to establish tagging and discovery mechanisms to facilitate this."

It sounds like we're going to help them tighten the stranglehold they already have.

I'm not suggesting for a moment that we should be developing some kind of national search engine like the disastrous French 'Quaero' project. As online publishing and metadata usage becomes more sophisticated and widespread, the roles of the search engines will change - their original role of keyword indexing and 'scoring' websites will be made less necessary by the improved semantic coherence of data on the Net - a.k.a. the 'Semantic Web'.

But that technical development won't necessarily loosen their grip. Using their existing market positions the search engines are working hard to consolidate their indexes, page-association ranks, user profiles and acquiring as much high quality data (scanned books, geodata etc.) as they can to insure their long-term market centrality. In an industry where innovative companies could once become giant killers overnight, they know that their ownership of what you could call the 'means of association' will have to be complete and coherent if they are going to protect their advertising revenues.

My response to the PSP consultation, emailed to the organisers soon afterwards doesn't yet appear on the empty 'responses' section of the site. For the record, this is what I thought the PSP could do about this at the time:

- Researching and advising on best practice in metadata, exchange and archiving standards.
- Researching and advising on best practice in legal preservation and maintenance of publically funded IPR.
- Producing and maintaining high quality free educational materials for groups and individuals in how to publish their video/audio/text online and archive it well enough for it not to contribute to the uncatalogued backlog.
- Investing in open source software and shared IPR projects that are consistent with and facilitate the above goals.
- Research and develop systems for traversing, searching and making inferences from data generated by the aggregation of all this published material, and make that data, and those queries available via open APIs.

The last point is the crucial one: public interest in maintaining a lively and innovative environment on the Net would be served best by helping to build less centralised search and discovery systems, and making the data underlying those systems, and the systems themselves available to all (irrespective of nationality) using Public Domain licenses.

This would not be a project the PSP would have to start from scratch. There is already an inspiring and powerful world-wide movement to which they could add welcome legitimisation and support. This was the final plea I made to the consultation group:

"Please, please *please*, don't lets reinvent any wheels. There are some great projects and initiatives out there, mostly organised along very ad-hoc and non-institutional lines. If this PSP idea can be kept human-scale at the edges, can be smart and careful in how it invests money and time in things, it could become part of an existing international ecology of open source publishing platforms, advisory organisations and citizen-publishing initiatives."

However, I'm sorry to say it looks to me like the PSP outlined in the OFCOM report isn't just going to reinvent the wheel, it's going to be a tax-payer funded factory for reinvented wheels. What I didn't understand until yesterday, 25th January 2007, was who would be running the factory.

After fuming over the newly published PSP report, I went to see a presentation by the author Andrew Chitty from Illumina Ltd. at an 'InSync' event organised by Frank Boyd at 01zero-one in Soho: the centre of the UK Film Industry, such as it is.
<http://www.unexpectedmedia.com/2007/01/15/insync-event-rights-will-make-you-rich-january-25th-2007/>

Andrew Chitty's presentation was about how the recent Communications Act (2003), which grants IPR rights to independent TV production companies, rather than to the commissioning broadcasters could be mirrored in agreements he, as a Vice Chair of PACT (the UK's media industry lobby group - <http://www.pact.co.uk>) is negotiating with the publically funded BBC.

He also talked about how if a similar arrangement could be made with the putative PSP, it's 100M jackpot could be used to part-fund projects to which independent production companies like Illumina Ltd. would then own international IP rights.

The last thing I heard him say, nodding complicitly to his BBC commissioner in the front row was 'maybe this one will land us all on that private Greek island'. Then the red mist came down and I vaguely remember lashing out verbally in the ensuing debate before leaving to spare myself total apoplexy.

It is hardly surprising that the PSP report would be so skewed to the interests of the media industry lobby groups. After all, with the UK advertising and media industry in a recession - that structural change and viewer-group fragmentation onto the US-dominated Internet may make permanent - the public purse must look increasingly tempting.

What is so infuriating about this stitch-up is that it completely misses the real commercial opportunities in public service models on the Net.

The infrastructure of the Net as an offshoot of US federally-funded and therefore Public Domain defence research became a common carrier on which millions of businesses, supported by the universe of Free and Open Source software have been built. The disproportionate reach that creative entrepreneurs could have using this common infrastructure gave birth to the Yahoos and the Googles that are now beginning to enclose parts of it.

Sadly, it seems the PSP outlined in Andrew Chitty's document will be producing a remake of the 1927 Cinematograph Films Act, funding the struggling UK film and TV industry to produce a quota of parochial 'new media projects', the IPR to which they may then exploit world-wide.

The challenge for the PSP, totally missed by this consultation, lies in addressing the strategic concerns of the Net as a global and national infrastructure; exploring and protecting the educational, commercial and societal possibilities of what 'public service publishing' might mean in this new context.