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The global patronage : an equitable scheme for financing Digital Works

<http://globalpatronage.org>

a contribution to the

Facilitation Meeting: WSIS Action Line

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* eneral intro+uction,

One critical aspect of the e-economy is to find equitable schemes in order to finance digital works. Authors of digital works are becoming part of a new class of poor people, and it become of a foremost importance to alleviate this new e-poverty that affects not only artists but all the media, including the press. Until recently, most financing schemes are projecting onto the virtual world, concept and properties of the traditional world, trying to transform digital works into fungible merchandise.

The situation may be summarized by the quotation of famous inventor [Edwin H. Land](#) : *Its not that we need new ideas, but we need to stop having old ideas.*

The failure of previous digital financing schemes is that they are not adapted to the new technology, and they are just trying to extend old ideas. DRMs for example are trying in vain to give digital content the same characteristics as consumers' goods, ie that it is not possible to share a good with somebody else without depriving oneself of its usage, that is assimilating digital content with a piece of bread. With digital content, the miracle of [feeding the multitude](#) is possible however !.

Those unnatural attempts results into monitoring and tracking, that are not only inefficient, but costly and harmful to privacy and freedom. On the contrary, our proposal is adapted from inception to the virtual world, its technology, its economy, its philosophy.

- perational +escription,

The Global Patronage is a new scheme which could potentially apply to all digital works that is available over the Internet regardless its distribution method (Sites, P2P, Webradios, etc. ..) .Each internet user must pay a fixed periodic contribution to its internet service provider (ISP), to support authors and artist who are member of a [Copyright Collection Society](#) (CCS) or a [Donation Collection Society](#) (DCS) which are created to enable the financing by Internet users, of digital works from authors that do not wish to rely on [Copyright Collection Societies](#) .

An important point is that each internet user has the freedom of choice, that he/she may freely assign parts of his/her fixed contribution to works that he / she chooses, within the limit of a fixed maximum percentage, using simply her/ his ISP account management application that deals with network and account parameters. It suffices to add another application on the ISP intranet. Because there would be unavoidably some users that would have no time or interest to express theirs choices, then contributions that were not explicitly apportioned, are going to be allocated according to an extrapolation of expressed choices. The extrapolation might be nonlinear function in order to reduce financial differences between various artists and authors, to promote diversity and new talents. Then each ISP automatically computes the amounts of apportioned contributions ; transfers the amounts allocated to each work to its authors and artists according to established rules. Each ISP automatically computes also the fraction coming from non-apportioned contributions for each author or artist, using the aforementioned non-linear extrapolation. Each ISP publishes the amounts of contributions to each work and each author or artist, originating from expressed choices and extrapolation. The ISP sends the amounts to CCS and DCS, which distribute them to authors and artists, deducting a management fee whose limit is set by law. In return each internet user is free to distribute on a non-commercial basis, copies of works already published by an author or artist belonging to a CCS or a DCS. The CCS and DCS shall be bound to implement the global patronage, while authors and artists who are not members of a CCS or a DCS shall not be obliged to participate to the global patronage.

Unlike the [statutory license](#), [compulsory license](#), as well as the [global license](#), where users are not consulted, users are determining themselves the way how

the collected fixed amount is distributed among authors, according to users' assessment of the works, not according to use or consumption. The global patronage does respect the various individual approaches to the Internet

Legal mechanism,

At the legal level, [limitations and exception](#) to [exclusive rights](#) of authors, are intended to deprive an author of his/her rights to prohibit the use of her/his work. Works may be used in this case, without having to ask author's consent. Acceptance of an exception to exclusive rights is regulated by the famous [Berne three-step test](#) : *Members (states) shall confine limitations and exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the rights holder* and has been adopted by the [European Copyright Directive](#) 2001/29/EC and included in various national laws in Europe. The legal mechanism of the Global Patronage does not rely at all on [limitations and exception](#) to [exclusive rights](#) of authors, as for photocopies or radio, as does the [global license](#) which is an intellectual extension. On the contrary, it is clear that broadcast of works through Internet does not constitute a secondary means of dissemination.

Our strategy is therefore not to introduce a new exception but rather to manage exclusive rights through [public law](#) statutes or laws of public order, introduced in contractual relations that bind respectively on the one hand internet users with their [Internet Service Providers](#) (ISPs) and on other hand, content creators through the channel of their various [copyright collectives](#) , [copyright collection societies](#) and [performing rights organizations](#). Private entities do not have the right to break [public law](#) statutes and any attempt to circumvent such laws is void. Many contracts feature public provisions determined by laws or decrees (eg employment, procurement contracts, etc...). One avoids in this way the famous [Berne three-step test](#). This is legally possible because, in contrast to the radio, one may identify users through their ISP contracts.

The legal scheme of the global patronage is therefore

- 1) not based on an exception to the exclusive rights of authors
- 2) based on public policy provisions in the various contractual relationships which are binding respectively:
 - a) Internet users with their Internet Service Providers (ISPs),
 - b) ISPs and CCS and DCS that receive funds sent by the ISP.
 - c) Authors and artists with their CCS and DCS.

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The consequences are very beneficial:

- 1 / there is no need of intrusive (costly, and nearly impossible..) eavesdropping of Internet data flow that could be detrimental to the privacy and individual freedom,
- 2 / emerging creators are not going to be drowned in a statistic that identifies, by design, only major creators, and therefore it is extremely positive in terms of artistic and cultural development, and support to

creation, national as well as international, while respecting cultural diversity. Because of this scheme, the country that would adopt the Global Patronage could become a place in the world, where new talents are revealed.

As for the [global license](#), but in a more general manner, the Global Patronage avoids the use of DRMs ([Digital Rights Management](#) ou Digital Restriction Management) or [Trusted Computing](#) aka [Treacherous Computing](#) which constitute unacceptable digital handcuffs or shackles. Any way, DRMs have been rejected by the market, and no longer provide a reliable option.

At the economic level, the Global Patronage because it provides content creators and businesses, an easy reliable and inexpensive means of payment for all types of digital works. It makes it possible to focus on digital production. It is expected to save the online Press. It makes it possible to draw up business plans that are not based on unlikely financing methods. It will enable the explosion of a new digital economy, much needed right now, in the mist of the serious financial crisis that is shaking the whole world.

At the philosophical level, we un-commercialize art, while allowing financing of artists, it is a return to the origins, after an excessive industrialization and exploitation of the first industrial revolution. More generally, we un-commercialize creation while allowing financial support for artistic creation. The Global Patronage is therefore neither an item of the consumer's society nor "collectivist solution." Patronage Global is a step towards a society of assessment, which allows a fair and equitable financing, while preserving freedom, individuality and cultural diversity, It is a component of the third industrial revolution.

Conclusion,

The real revolution of e-economy is going to occur, not when the internet is used as a tool to improve traditional business methods such as online shops for selling merchandises, but when the web is going to provide an enabling environment for the financing of digital works. This involves a paradigm change in e-business models.