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The battle, daily life, and future of free licenses

Some notes from the publishing project Traficantes de Sueños

Traficantes de Sueños

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0. Introduction

Traficantes de Sueños (dream dealers) is a political production and communication project that consists of an associative bookshop, a small distributor, a design workshop, the self-education project Nociones Communes (common notions), and the publisher TdS. E35, the bookshop's headquarters in the Lavapiés neighborhood in Madrid, is also a social center, open to the city, and which embraces a multitude of presentations, meetings, and debates throughout the year. TdS is also a social economy project, that is, a non-profit assembly-based association, involved in the networks that seek to generate a different type of economy.

From the outset, TdS has received and collaborated, feeding on, and in turn feeding, the debates and practices of the social movements in the city. It began its activity in 1997 as a place for the exchange and distribution of fanzines, books, and materials related to autonomy. Inspired by the free software movement, the

TdS publishing house emerged in 2003 as part of the free culture movement[1]. Its distinguishing mark has been the use of licenses that allow the free copying and dissemination of contents: Creative Commons licenses. All of the books from TdS can be copied and distributed both in print and digital formats. When a book is published, a PDF copy is made available on the project's website. The publisher has 90 publications so far. The assembly is formed by six people, and three of them receive a wage for their work.

1. The battle for control over knowledge and culture

Knowledge and artistic expressions are produced from previous as well as contemporary elements, thanks to the wide-spread networks in which we participate. They are made of fragments, of mixes, of collective experiences; each person or group rebuilds them in an original way, but they cannot be fully claimed as property, with others excluded from their use or replication. That is what patents, copyright, and intellectual property defense laws do.

Knowledge has acquired a central place in the current economy, to the point that many authors call this stage of capitalism, cognitive capitalism[2]. On the one hand, the strategic and leading sectors, those that produce greater added value, are linked to the generation of knowledge and its industrial and technological application, such as biotechnology (seeds, medicines, genetic analysis, sanitary materials) or software (multiplied by the diversity of devices on the market). On the other hand, beyond these strategic sectors, in the services sector, the largest sector in central countries, cognitive (as well as affective) abilities are demanded more and more from workers on every level, whether they should deal with computer programs or with people[3]. Finally, it is also a

question of language, identity, and difference (cognitive elements), which determine the sales of many businesses, and not only in services or technology-based companies: the income of shoe sellers depends as much on low production costs as on the high sales prices which certain types of marketing allow them[4].

Culture has also become an economic resource[5], less so than expected by post-industrial governments, which had placed their hopes in these sectors, but without doubt important. As well as the sector's classic industries (cinema, publishing, performances, museums), "culture" has reached a central role in the tourism sector and in the attraction of workers and capital to certain cities and regions. We are talking, of course, about the creative city and the new social innovation niche[6]. The governmental efforts to turn small associations and initiatives into cultural companies have been duly analyzed in several studies[7].

The real objective of intellectual property defense laws is to benefit these companies and corporations in strategic sectors, based on knowledge and cultural production, through the legalization of temporal monopolies that, as in many other fields, impose an artificial scarcity. Although this has been the basis of intellectual property from the beginning, with the development of technical copying methods which cheapen production (down to zero cost for digital copying), the prohibition of the copying of certain products, expressions, or inventions, appears in a clearer way as an imposition of control on the distribution of the profits generated. The repeated argument is that this artificial monopoly, ensured by states, encourages research and cultural production since if these profits were not ensured, the producers would stop dedicating themselves to these sectors, which are fundamental for society as a whole. However, given that these companies and industries make multimillion euro profits and that in many cases they cover fields

of vital importance to the population (medicines are a clear example), it is worth questioning what proportionality is maintained by the balance between the necessary incentives and the general interest. The laws enacted favor producers more and more, and pursue offenders with more force, aside from any consideration of the actual use of the copy or of the size of the producer and the user.

In the cultural field, what is certain is that these prohibitions have little effect; the ease of digital copying and the similarity in experience of many devices (CDs in the music sector, movies in the cinema sector, and books in the publishing sector) has put the industry on alert. The publishing industry is characterized by big companies that, through successive mergers, take over the market thanks to their investment capacity in production and marketing. These mega publishing houses respond only to the criteria of profitability, which means that on many occasions they vouch for authors, themes, and formats, that ensure sales; that is, they do not favor the richest cultural field. Unknown writers have very few possibilities of seeing their books published and those who do not have access to powerful promotional machines achieve scarce returns on their author's copyright. The panorama, in sum, consists of a few companies and authors with high profits and copyright, and many companies and authors with scarce possibilities for making themselves known and, therefore, for continuing with their work.

These big companies clearly support the enactment of laws that are more and more restrictive, at the same time as they block the development of the books in digital formats. They know it is difficult to control a digital copy once it is online. Thus, on the one hand, they invent anti-copying devices for digital formats to try to avoid their distribution. On the other hand, they delay, as

much as possible, the launch of e-book platforms and they maintain high prices to minimize their purchase. We are at a time when the cost of copying cultural products approaches zero and, however, instead of taking advantage of the new circumstance, without a doubt beneficial for the cultural development of a society, companies from the sector boycott this possibility. It is more and more difficult to defend these laws as serving the general interest, or to claim that these companies deserve incentives/ monopolies for their contribution to society.

The free culture movement vouches for a more decentralized model that may not reach multimillion euro profits for producers or authors, but which will allow for the distribution of a greater variety of cultural products and an access unmediated by the economic size of their publishers. For this, the Web is fundamental seen as it is, currently, neutral, and thus guarantees greater distribution and access than print forms for both producers and receivers. The Web and free licenses are at the center of the battle that is underway for control over knowledge and cultural production. These licenses ensure the free use of the artistic expressions and knowledge generated. We will return at the end of the article to the alternative sustainable forms of this type of project, which allow for free distribution and copying. Now we are going to tackle the difficulties of licensing a book with Creative Commons.

2. The daily life of Creative Commons

Creative Commons licenses legally ensure certain freedoms in the use of a cultural product, whether that is a book, a song, a score of music, etc. They allow the author and the publisher to decide, in our example, if copying is allowed in all cases, or only in those that

are non-profit or that respect the integrity of the work. The moral rights of the authors are not diminished and the correct authorship citation is maintained as a requirement. In our experience, acquiring a Creative Commons contract for a piece of work has not been easy.

Regarding the authors, many think that a CC license will leave them without copyright, which is not the case. The author receives payment for his/her work in the usual way (advance and percentage over sales) independent of his/her work's license. One of the central problems is that authors give up their works' exploitation rights in all languages to the first publisher that publishes them. Thus, they lose the possibility of negotiating, in each case, the publication licenses of their texts in other countries. The publishing houses understand this copyright as an asset and try to maximize the profits obtained from its sale to other publishing houses, according to business criteria and not with the aim of favoring the distribution of the text or knowledge of the author in other countries. We have tried to buy the publication rights of foreign texts and, despite there being no other offer and even with the support of the author, we have not achieved it. The author loses and the work loses. We could say that we all lose.

Regarding foreign publishing houses, many respond that the CC licenses do not enter into their publication and sales protocols and they refuse, as we indicated, to sell a work that may be published with these licenses. In some negotiations, the discussion ends here, on a question of "principles"; these principles consist of limiting the existence and extension of these licenses, which they consider dangerous for their business.

Many think that CC licenses put the original's copyright at risk, when this is never the case. What puts their copyright in danger is

the desire for knowledge of the population, which may scan and upload a pirated copy of their text online. The fact that the translation of that work is licensed with CC does not modify the license of the original work.

Foreign publishing houses obtain profits from the sale of their translated books in print; by contract, as well as the advance, they receive a percentage over the sales. Some think that a CC license, because it allows copying, and in our case, a free PDF, will reduce the print sales, which would mean a reduction in their income. There are no conclusive studies, however, on how the free distribution of a text, which always means a broader public, does not compensate for a possible reduction in sales. In fact, aside from compulsive consumption (see-buy), generalized precariousness makes people think carefully about what books they buy. The available PDF might make them decide on the investment, by seeing the exact contents of the book; having access to the books, they may find others that interest them and decide to buy one for themselves or as a gift. In our case, a small publishing house, making the book accessible online grants a visibility that would be impossible to reach through traditional marketing means; that is, we believe that a publisher who sells us a book with copyright will obtain lower profits than if they sell it to us with CC. The greater distribution of the text allows for more print sales and these sales generate more income. We could say that it is a promotion cost which is in reality impossible to pay. In the final section, we will again take up the issue of what it means to free a text to the reading community and the possible economic returns, normally undervalued, that this generates.

Regarding Spanish publishing houses, there are some that publish with CC but they do not upload the text online in any digital format; we believe this to be an incomplete use of these licenses.

Allowing print copying, that is, photocopies, is a freedom with little effect: very few people will photocopy a whole book. Clearly it facilitates educational uses (photocopying a chapter, for example), and it is positive in the sense that it normalizes the presence of these licenses, but, without a doubt, it does not mean a full commitment to the power of this form of production. It is reasonable to think that they try to capitalize on a certain support from sectors that are critical of the cultural establishment but without fully committing to the model. We hope that these publishers will not only license with CC but that they will upload their texts to the Web so that they can be distributed without obstacles.

Regarding e-books, problems also appear with CC licenses. Their appearance and extension have complicated negotiations since publishing houses try to sell the digital rights as well as the print rights. For both, advances and percentage over sales are requested, sometimes of very similar quantities. On occasion, they include in the contract the minimum price for selling digital formats, thus ensuring themselves a percentage of an elevated price. However, in this field they gain profits without barely investing a cent given that the production cost of a digital book is very low, there are only format transformation costs (if we exclude what they may pay for anti-copying systems – DRMs – or having their books on anti-copying platforms). Selling the digital copy at almost the same price as the printed copy and raising the cost of the production of foreign editions are clear examples of a boycott against the digital book. In our case, what occurs is that they do not want to allow us to post the PDF because it is of free access and, therefore, if we don't charge for its sale, they do not receive a percentage over the sales. If they do accept, even if we are not going to obtain profits, they demand a fee for the digital rights.

There is a lack of awareness and fear in the publishing world around these free licenses[8]. What is certain is that we have had to renounce the publication of texts that we found very interesting because the publishing houses refused to sell them to us to be published with CC. One exit route when facing this problem is to insist that authors do not sell their rights for other languages so that they can decide on the use of their works in each case.

3. The sustainability of free culture projects in the digital world

Up until the present, our publishing house's income has come from the sales of books in print. We upload a PDF copy to the Web but we believe that this, as well as favoring the spread of critical thinking and culture, makes us more visible and has a positive effect on the sales. We do not sell the digital formats (mobi, epub), on the one hand, because we do not have the digital rights of many copies, but on the other hand, because we license with CC and allow copying, someone could immediately, and legally, upload a copy of that file to a different website from which it could be downloaded without cost. Seen as ours is a political project which looks for material sustenance to continue producing politics, the fact that the downloads could be produced on another site lowers the possibility that someone, on downloading one of our texts, accesses other contents of debate or the dates for book launches, debates, projections, etc.

What will happen then if the digital model imposes itself and the print sales drop? The most feared question in the sector: what happens if people stop reading books in print, and the copying of e-books is as simple as that of music? In our opinion, it is not worth increasing the efforts to control copying (which in almost any case is useless: "culture wants to be free and it will be") but to

rethink publishing and the role of the publisher in this new context.

The role of the publisher has always been that of selector and producer of contents; the sale of these contents in book format allowed for the support of the production structure.

We believe that the role of content selector could be maintained with other methods. For example, same as musicians depend more now on concerts, we could say that publishers will depend more on the book launches, courses, and debates that they promote. In our case, the alliance of the publishing house with the bookshop, which manages the hundreds of activities that take place in the space, and with Nociones Comunes, the self-education project, is in this sense vital.

We also must discover new added values for the purchase of a book or an e-book beyond the download of the text itself. For example, links could be established with readers in such a way that whoever buys a book or an e-book receives extra information (about the author, related topics, etc.) during a certain period. On the other hand, the publishers' knowledge of book production could achieve returns in the provision of publishing services. It is not hare-brained to think that a publishing house might obtain part of its income from the tasks of editing, correcting, lay-out, or the management of printing books, manuals, reports, etc. of other companies and groups that are not specialized in this sector.

We could also rethink the *financing methods.* In the case of publishers that support free culture, this is related with the joint responsibility of the readers (and the authors). Same as one chooses to shop in a fair-trade shop or to buy ecological agriculture vegetables because one supports a certain type of production and

economic distribution, those who believe that culture should be free can support projects of this type. Deciding to shop in one bookshop and not another, or to publish with a certain publishing house and not the biggest ones in the sector, are ethical and political questions that are on the table.

Two such financing methods which appear to work are subscriptions and crowdfunding. Subscription to a publisher's books allows for a stable economic income for the productive structure; the subscribers are people who want culture to be free and who financially support the productive structures that liberate it, as well as receiving the books in print and other services. The publishing house TdS started a system three years ago with positive results: contrary to the "what is everyone's is no-one's" of Hardin and many other disqualifiers of the *commons*[9] alternative, we have confirmed that there are people who feel concerned about the liberation of contents for the commons and who commit economically so that these projects may continue.

Crowdfunding is a micro-financing model for collective projects; if a lot of people contribute a little money, great things can happen[10]. TdS and the authors of *Cojos y precarias hacienda vidas que importan* (Lame and precarious people making lives that matter) set up a crowdfunding to publish the book, and the necessary money for printing was achieved in a collective way. In many cases, it is really a pre-purchase system through which the interested readers forward the money so that the book may be published. This contribution from the community reduces the costs of production and allows for the publication of texts that do not have guaranteed profitability.

In relation to these reflections, it is worth emphasizing the importance of the *social economy networks* present in many

countries. These networks of producers, distributors, and consumers, vouch for another type of economy and commit themselves to consuming goods and services within said networks. It is a production based on the principle of equity that does not seek profit but the support of productive structures. In REAS, the main alternative and solidarity-based economy network in the Spanish State, Traficantes de Sueños has tried to spread the principles of free culture so that the entities involved bare it in mind alongside ecological or gender-related principles. Some of these companies and associations choose to buy the books and services of TdS because they are committed a different economic model.

Lastly, as well as the necessary imagination for inventing new publishing models and the importance of the communities that can support them, it is also necessary to deal with the structural questions. Precariousness is a constant in small cultural projects (and in the labour market as a whole) and it is worth proposing general alternatives both for the workers and the institutions.

Similarly to what was explained at the beginning of this article, it has been shown that cognitive capitalism accumulates on the cognitive, affective, relational, and linguistic capacities of an entire population; their creativity and lifestyles. Therefore, because employment is more and more scarce and because all of us have the right to a decent life, *the basic income proposal* has been launched. This universal and unconditional income as a right for all people would allow, without a doubt, for the enormous cultural growth of societies as it provides a material basis for all creators and thinkers who today cannot develop their concerns because of wage slavery and existential precariousness.

Moreover, we should demand that public institutions support free culture projects. On the one hand, they could license all of the production carried out with public funds with free licenses, allowing full access to the knowledge and expressions generated with money that belongs to all of us; this would affect universities, museums, and other public cultural institutions. On the other hand, in the externalization of services and the purchase of cultural goods, the requests for bids and tenders could include a free licenses requirement, or the bidding process could favor those proposals that include this type of license. We can also imagine public structures that reduce certain costs, like public work spaces that reduce rental costs for free culture projects or public printing houses that lower the costs of publication.

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Without a doubt, as well as continuing to extend free license practices in the battle that is underway for control over knowledge and culture, free culture projects should be capable of imagining new methods to survive in the digital context without blocking the spread of contents. This is the challenge for everyone who wants access to culture not to depend on the income one has or the place one was born.

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[1] The free culture movements vouch for permitting the copy, distribution, and communication of knowledge and artistic expression generated in a society. But **"free" (*libre*/available) is not "free" (*gratis*/without cost);** free culture projects need communities that support them and sustain them. Like fair trade

or ecological agriculture, they respond to a different model of economy in which the "buyers" are not clients but co-participants in the generation of new forms of production, distribution, and consumption.

[2] A. Corsani, M. Lazzarato, and Y. Moulier-Boutang, *Capitalismo cognitivo,* Madrid, Traficantes de Sueños, 2004.

[3] Precarias a la Deriva, *A la deriva. Por los circuitos de la precariedad femenina*, Madrid, Traficantes de Sueños, 2004; Cristina Morini, *Por amor o a la fuerza*, Madrid, Traficantes de Sueños, 2014.

[4] Andrea Fumagalli, *Bioeconomía y capitalismo cognitivo,* Madrid, Traficantes de Sueños, 2010.

[5] Yproductions, *Innovación en cultura,* Madrid, Traficantes de Sueños, 2010.

[6]. Various authors, *Producción cultural y prácticas instituyentes,* Madrid, Traficantes de Sueños, 2008

[7] Jaron Rowan, *Emprendizajes en cultura,* Madrid, Traficantes de Sueños, 2010.

[8] One noteworthy case was an American journal that allowed us to upload the PDF of the article, but not to license it with CC.

[9]See his famous article, "The Tragedy of the Commons" in http://www.sciencemag.org/content/162/3859/1243.full; in relation to this, from our publishing house we recommend, *La Carta de los Comunes,* Madrid, Traficantes de Sueños, 2011.

[10]Although this method should not be idealised given that it may end up being an exchange between the poor (the precarious

collectives help each other to achieve their projects in such a way that it is above all a form of collective saving) and the general fights should be prioritised for access to income. What is certain is that in the Spanish State these campaigns are an important moment of visibility for the collectives and projects in the networks and positive results are being obtained.