Free Culture Advanced

Benjamin Mako Hill
FSF Board Member

November 11, 2007

Not only is the free software movement a source of software and licenses, it is also a source of inspiration. In particular, free software has been cited by many in the nascent free culture movement as an explicit source of inspiration and point of departure. While the Free Software Foundation has no position on whether works of culture should be free, many in the free software movement have supported and helped build the new movement for free cultural works.

However, free software and free culture, at least as articulated by the leaders of the movements, have diverged in several important ways. Free software, as enshrined in the FSF's *Free Software Definition* (FSD) (and the derivative and largely overlapping *Debian Free Software Guidelines* and *Open Source Definition*), clearly enumerates the essential freedoms at the heart of the free software movement: the freedoms to use, modify, share and collaborate. The FSD provides a list of essential freedoms that serve as a Utopian vision, a clear goal, and a demarcation line between what is free and what is not. Many involved in free software debate when programs should or shouldn't be free software but there's little debate about what is and isn't free software.

Free culture, on the other hand, is defined very differently. Lawrence Lessig, member of the FSF's board of directors and author of the book *Free Culture*, defines the term as, "a balance between anarchy and control". Elsewhere, free culture is described as the freedom for authors to choose how their works are licensed. While essential to the possibility of licensing in general, this type of freedom departs strongly from the type of freedom at the core of the free software movement. Creative Commons (CC), perhaps the most important organization in the free culture world, argues for "some rights reserved"—a striking contrast from the free software movement's "essential rights are unreservable".

The result of the FSF's strong Utopian calls for freedom has been the vibrant social movement that has ultimately brought about free software's success to date. Almost-free software and shareware, popular twenty years ago before the GNU project was well-known, have been subsumed and replaced by free software as authors were challenged to release their work more freely so that it could be included in Debian or Red Hat, hosted on SourceForge, or, quite simply, referred to as free software or open source.

Seeing inspiration in the GNU GPL, but not the FSD, some in the free culture movement have adopted the legal instruments (i.e., copyleft and licenses) of the free software movement without the goal-setting at the heart of the free software movement. The result has been the proliferation of licenses that solve real problems and provide a benefit over the status quo but are controversial within the free culture community (e.g., CC's Developing Nations or Sampling licenses) and a situation where most creators are not challenged to release their works more freely. The result is that today, more than three-quarters of CC works are under the two most restrictive licenses.

Recently, in an attempt to provide such a goal, a group of free culture advocates and Wikipedians have publicly drafted the *Definition of Free Cultural Works*. Like the FSD, it argues for essential freedoms to use, study, redistribute and change cultural works. However, it recognizes that there are important differences between different types of creative goods and it attempts to explore and speak to these differences. In particular, it discusses the role of attribution, the idea of "source" data for a work, the use of free data-formats, and technical restrictions such as Digital Restrictions Management (DRM).

While the definition has reached a "1.0" stage and has been translated into more than a dozen languages, it continues to be a work in progress and a space for meaningful discussion about what "freedom" in the realm of cultural work should mean. In an important step forward this year, the board of directors of the Wikimedia Foundation, the nonprofit organization that oversees the Wikipedia project, endorsed the idea that content in Wikimedia wikis should be free except in several well-defined cases. They stated that the *Definition of Free Culture Works* would be their guide as to what was and was not free enough. Other projects are underway to provide buttons that users of qualifying CC licenses can use to explicitly reference their ethical motivations when they reference the license of their work—much like what the GNU GPL's preamble does for free software.

This effort does not argue that culture should be free in certain ways *because* it is in the way that free software is defined. Instead, it takes tactical inspiration from free software for *a* definition of freedom, as well as for a strong example of an analogous social movement

with a compelling message and compelling success. It provides a way that the free culture movement can use the licenses that groups like CC have already created in a way that attempts to replicate free software's tactics and success.

You can find out more about the *Definition of Free Cultural Works* at `freedomdefined.org`.