



A commons-based foundation of open access and other open models

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**A commons-based foundation
of open access**

or

**knowledge is the water
of the mind**

Content - Topics

- ☐ **Open Access part of a new value system in electronic environments**
- ☐ **Open Access – part of knowledge ecology**
- ☐ **Towards an understanding of knowledge as a commons**
- ☐ **Models for the institutionalization of knowledge**
- ☐ **What needs to be done? Transformation processes**
- ☐ **Conclusion**

A different view on open access

Open Access is **not only a model for organizing the production, distribution, and usage of knowledge** but is also part of a **new value system** which is being developed in electronic environments.



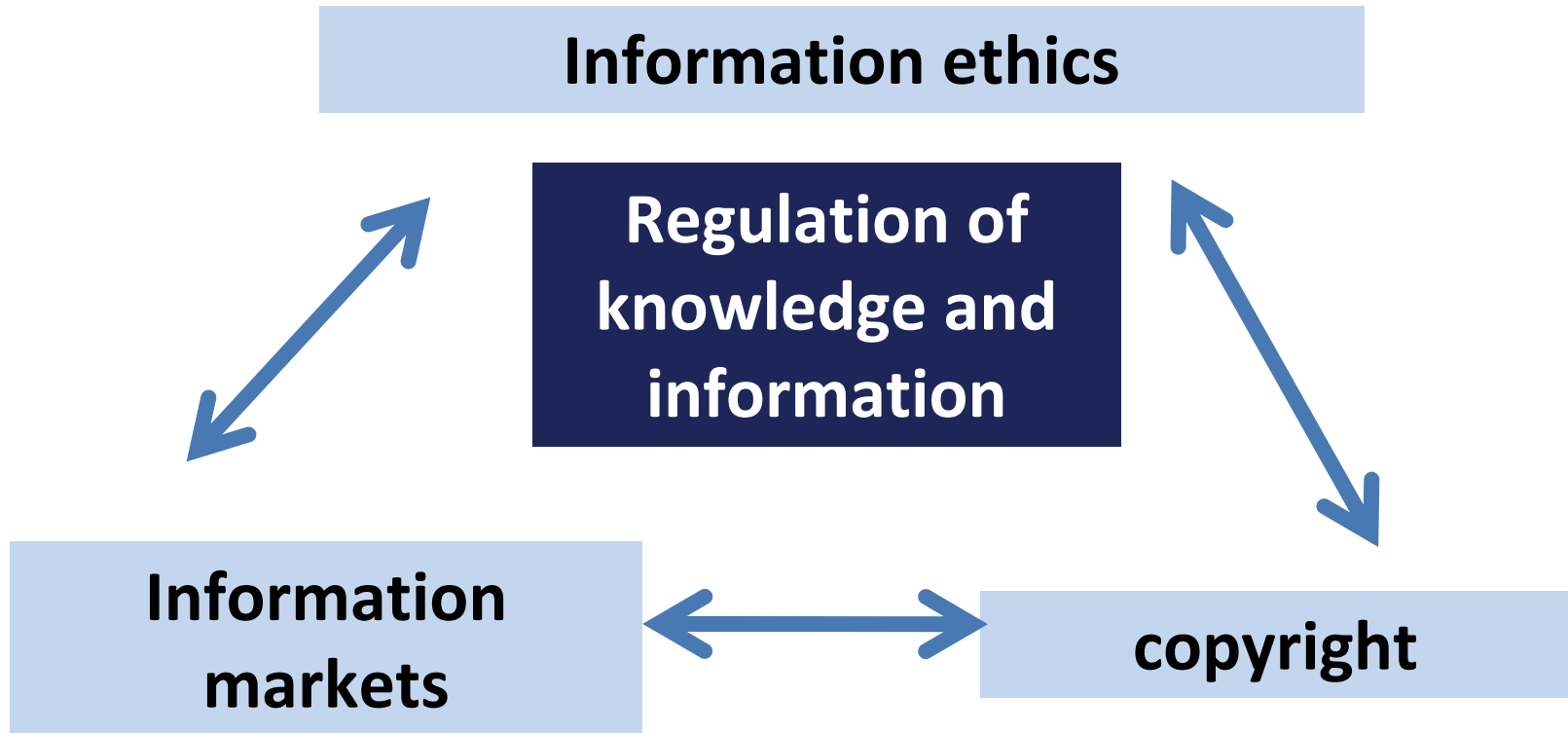
**information
ethics**

Information ethics aims at finding out which beliefs, rules and values guide people at any given time in history in producing, exchanging, sharing and using knowledge and information.

Information ethics is based on the **concept of knowledge as a commons.**

Commons not only the base for information ethics

Open Access part of a new value system in electronic environment



Commons not only the base for information ethics

Commons is also the central concept of

knowledge ecology 

and in time to come for

markets

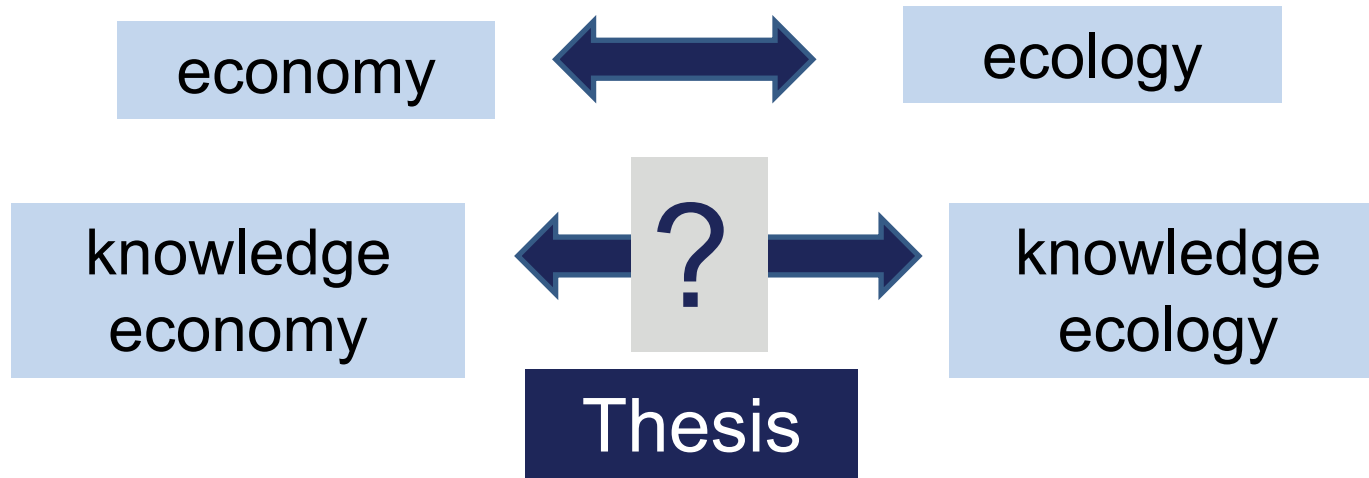
and law

Ecology in general is concerned with the **sustainability** of natural resources (for instance water, air/climate, forests) by protecting these resources from overuse.

Knowledge ecology is also concerned with sustainability but **sustainability of immaterial goods** such as knowledge can only be achieved by making it open and free open access and **unrestricted use**.

The concept of **knowledge ecology** and in its context the **idea of open access** provides an **alternative** both to existing **commercial publishing models** on the international information markets and to **international copyright regulations**, which, in the last 20 years, have mainly emphasized the **economic impact of knowledge and information** and thus have made knowledge a scarce resource

Open Access – part of knowledge ecology



Knowledge ecology **does not object to the commercial use of knowledge,**

but suggests that **publishing models are only acceptable when they acknowledge the status of knowledge as a commons,**

allowing free and open access for everyone

not reclaiming exclusive property rights.

Towards an understanding of knowledge as a commons

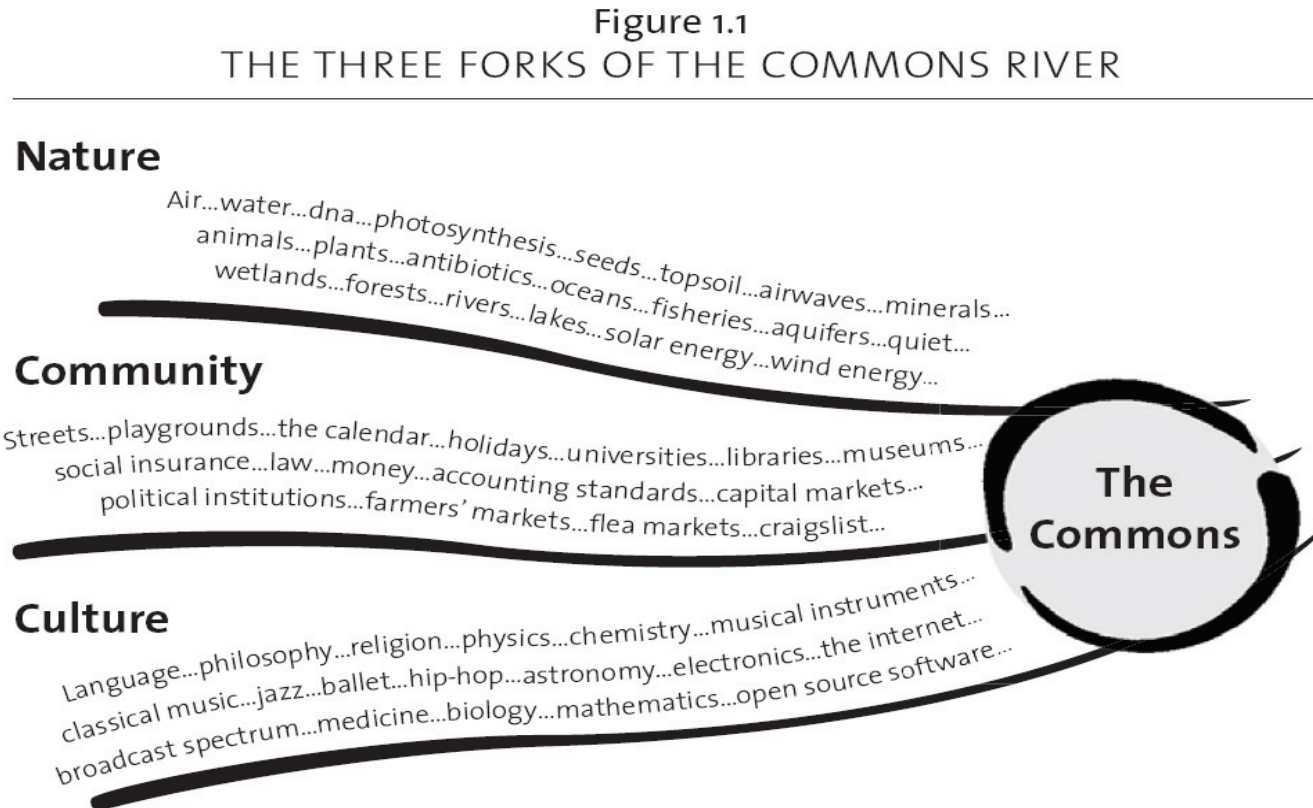
An understanding of knowledge as a commons

common heritage
of
nature

What are commons?

common heritage
of
social life

common heritage
of
cultural
creativity



Aus: Peter Barnes: Capitalism 3.0

An understanding of knowledge as a commons

What are commons?

Commons

☐ **water**

☐ natural resources

☐ public spaces

☐ air/sky

☐ **knowledge**

....

access to water is a fundamental
human right

knowledge is the water of
the mind

access to knowledge is a
fundamental human right

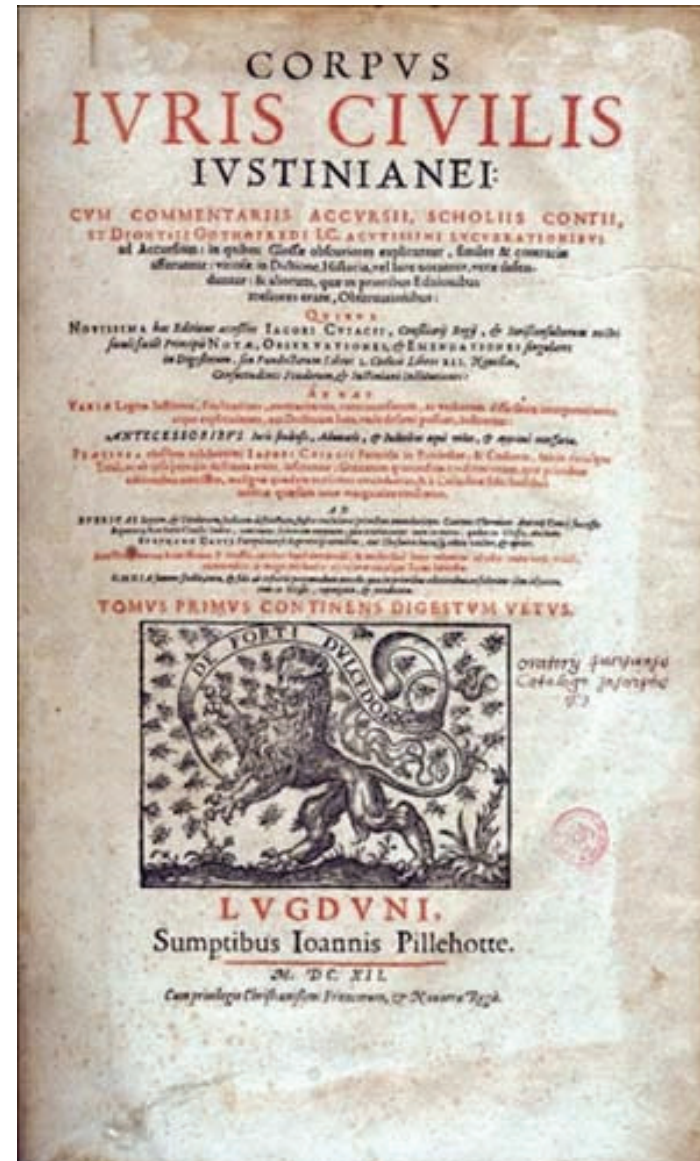
An understanding of knowledge as a commons

res nullius
res privatae
res publicae
res communes

What is the
status of
knowledge?



Justinian I., Mosaiكدetail aus der Kirche [San Vitale](#) in [Ravenna](#)



An understanding of knowledge as a commons

Who owns knowledge?

producers/authors?

exploiters/content providers/publishers?

users/those who need it for their work?

**knowledge is part of the commons – of the res
communes**

nobody should own knowledge exclusively

An understanding of knowledge as a commons

Who owns knowledge?

is it the right question?

knowledge itself, ideas, facts, theories, ...data(??)

is not protected by copyright laws

An understanding of knowledge as a commons

knowledge is a commons
but only usable **when accessible**

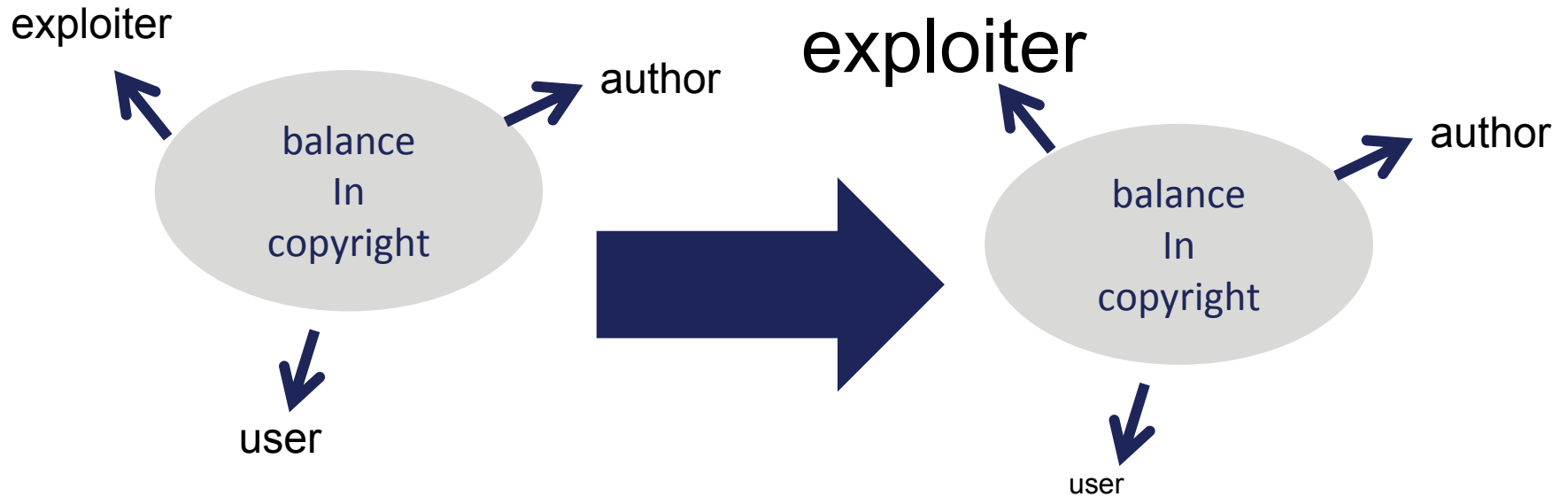
Who has access to knowledge?
Who controls the access to knowledge?

The question is not one of **knowledge** but that of **information**

**Who has access to information – who controls
information?**

Access is the challenge

making it a scarce resource



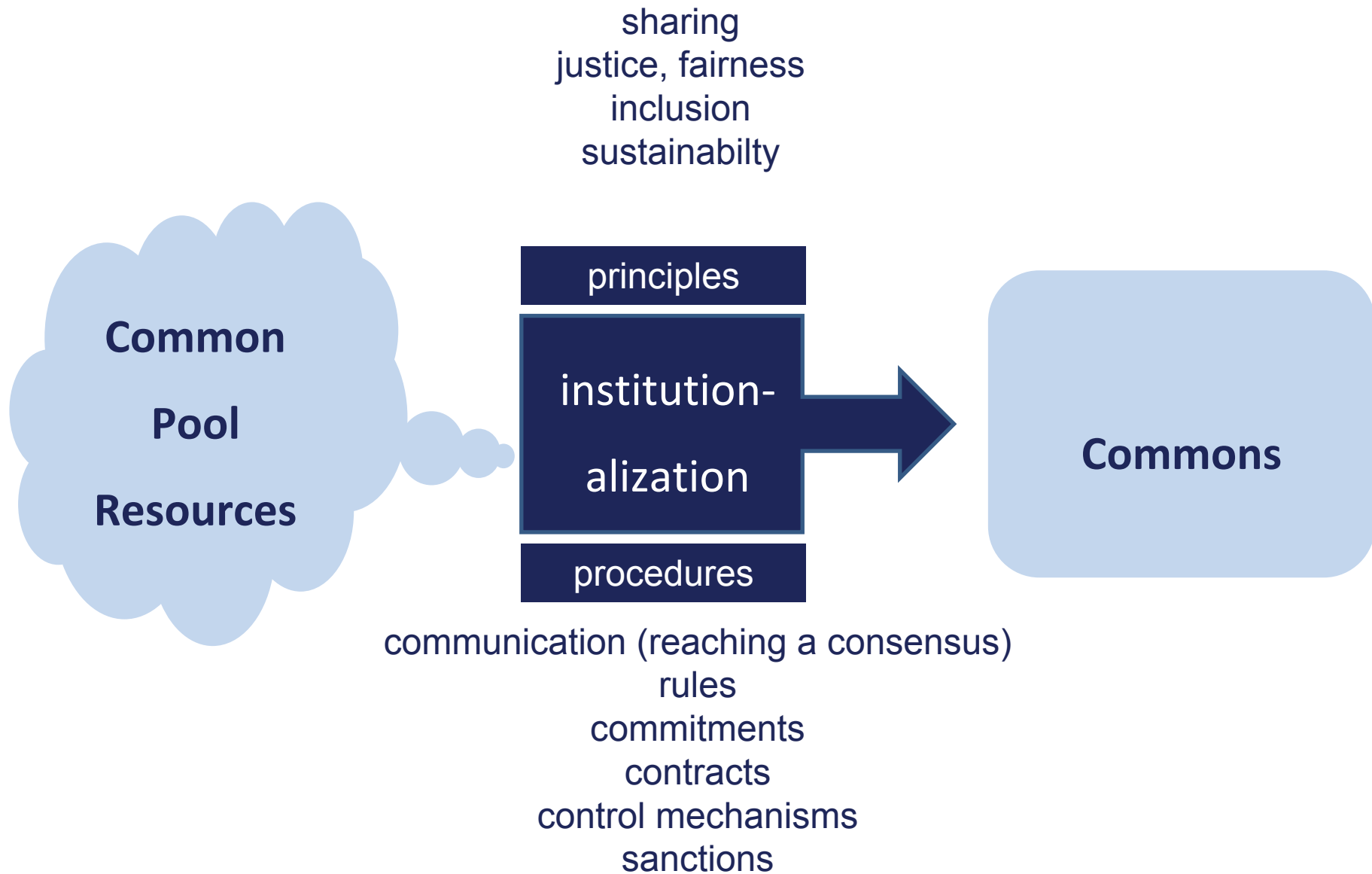
Access is the challenge

knowledge is a commons
but only usable **when accessible**

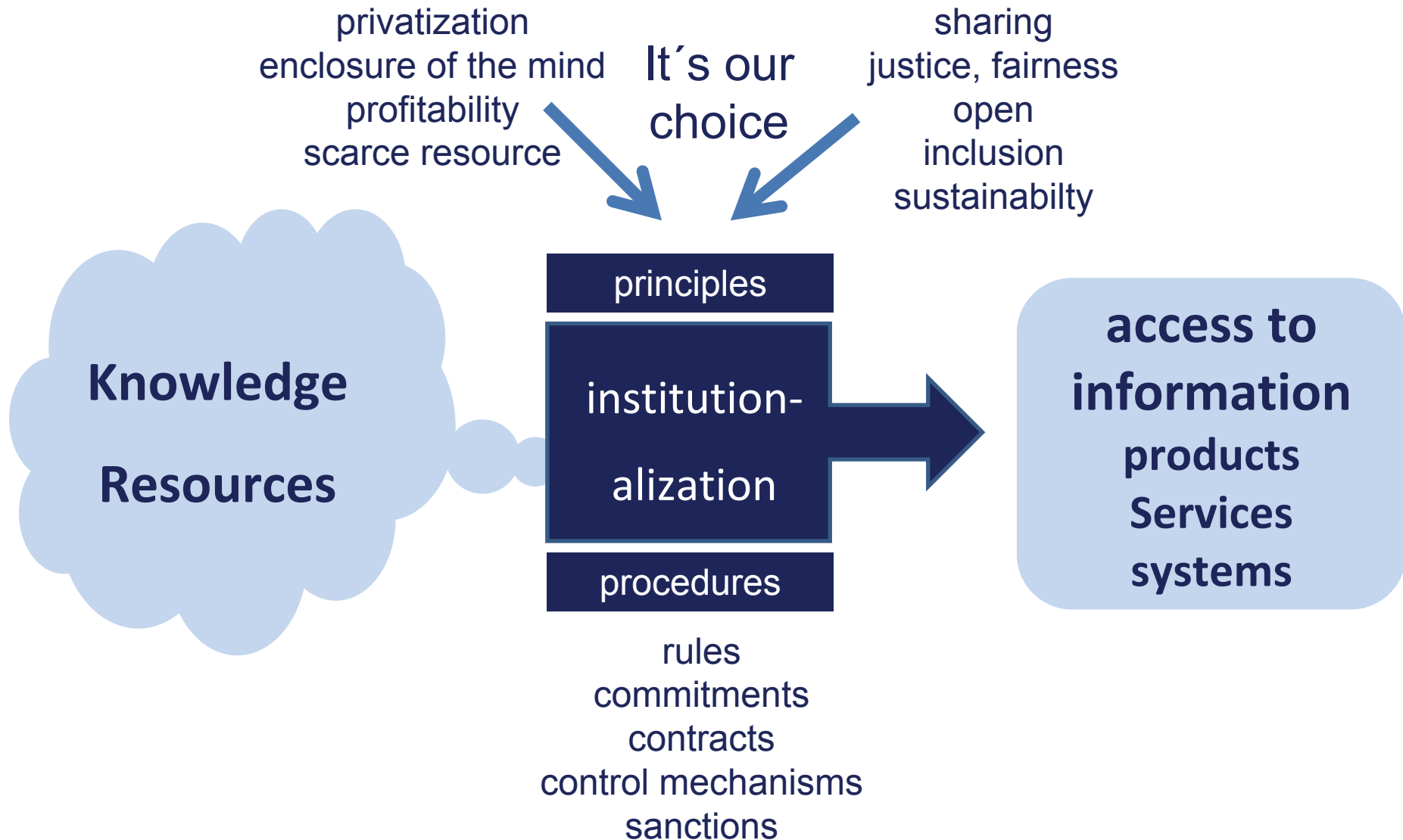
knowledge needs to be **institutionalized appropriately**
In order to become a **common property**

Open access is a form of **institutionalization of knowledge** as a commons

Institutionalizing knowledge as a commons



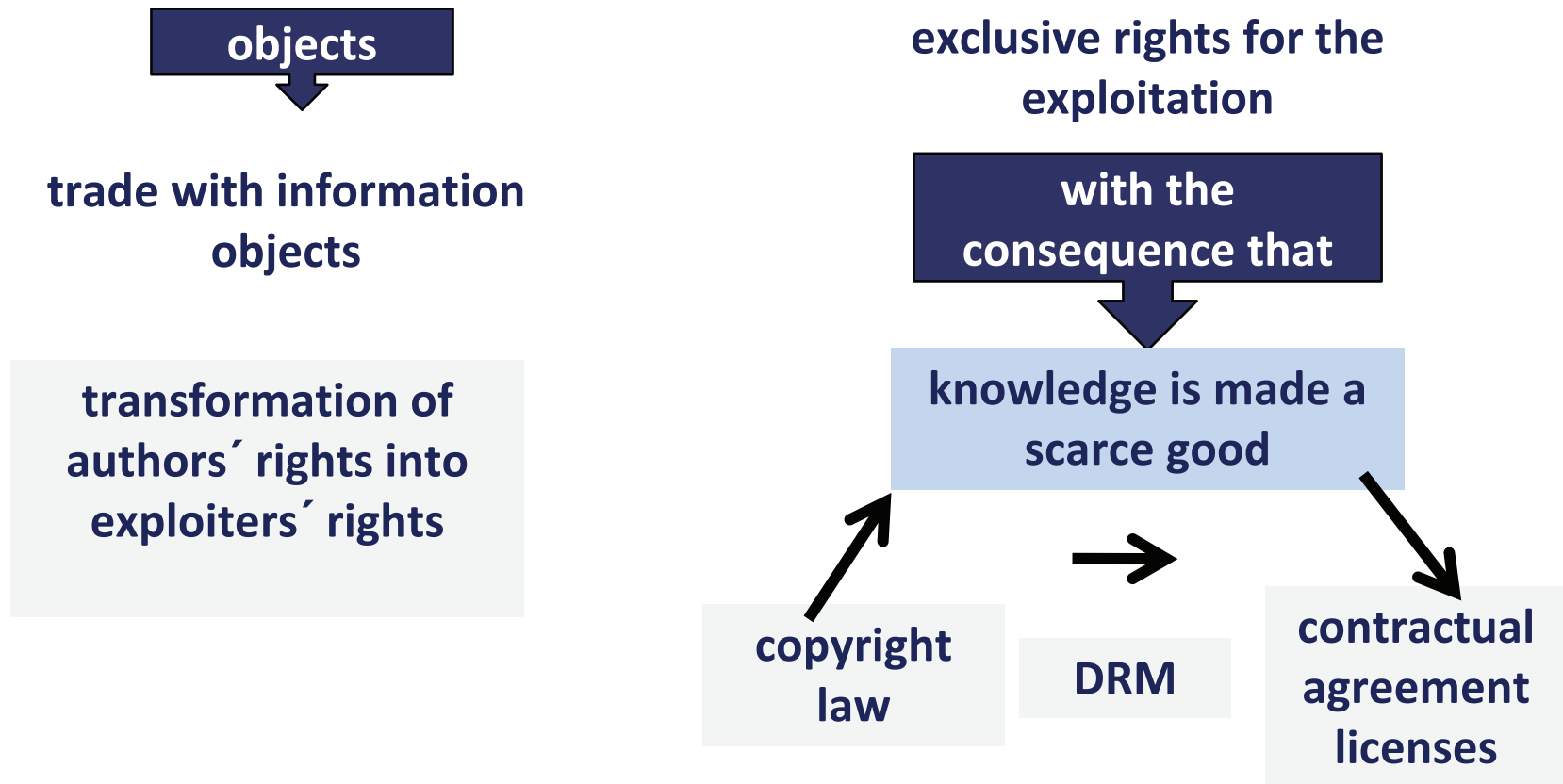
Institutionalizing the access to information



Models for the institutionalization of knowledge

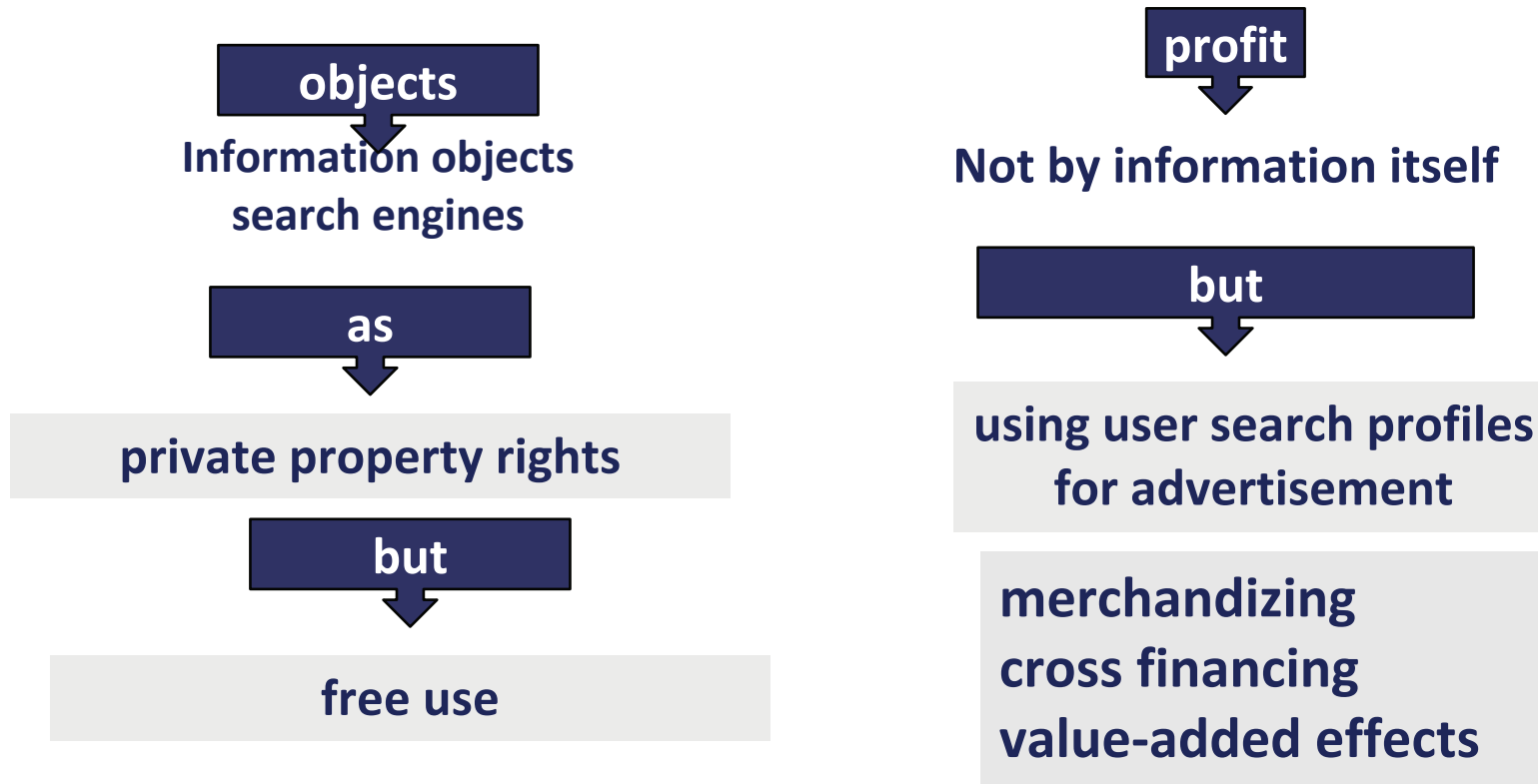
Models for the institutionalization of knowledge

(1) Proprietary commercial information markets



Models for the institutionalization of knowledge

(2) Freeconomics markets – prototype Google

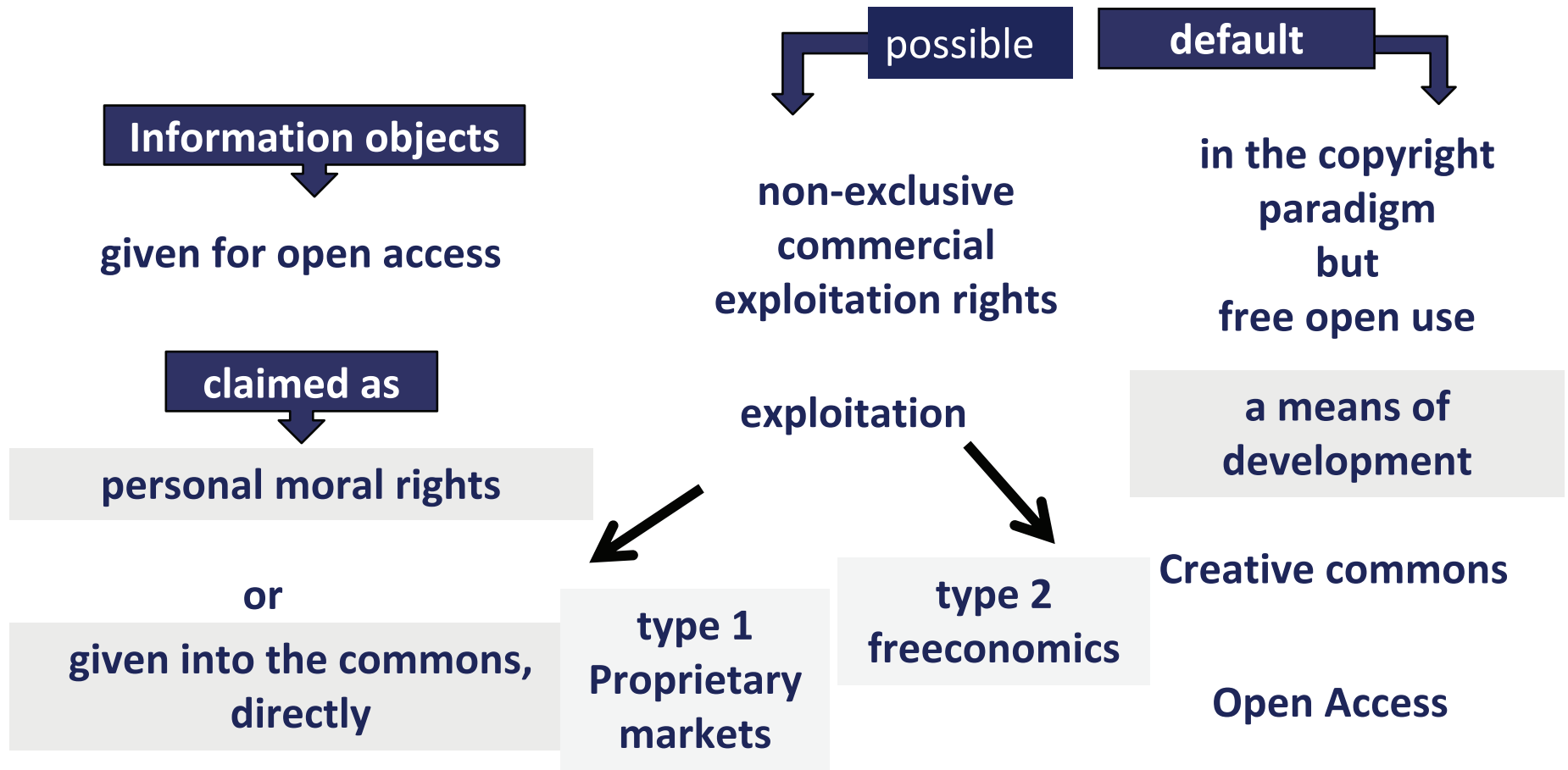


Will SpringerOpen mutate into a freeconomics model?

Usage open/free, copyright remains by the authors – the public finance the production costs and the profit of a company on the information market

Models for the institutionalization of knowledge

(3) Open free markets



Models for the institutionalization of knowledge

(4) commons-based information markets

Commons

air/sky
water
natural resources
the public space
knowledge

....



A property of mankind
but

private rights for
exploitation possible and
often necessary

but only



with non-exclusive exploitation rights

with sufficient compensation to the
public

as long as free access to everyone is
guaranteed

What needs to be done? Transformation processes

What needs to be done? Transformation processes

(1) transforming the **understanding of intellectual property**

knowledge as a commons is **not to be considered a res nullius** which can be used ad libitum by everyone for whatever purpose

developing a concept of common property rights
without denying private individual property rights

What needs to be done? Transformation processes

(1) transforming the **understanding of intellectual property**

knowledge as a commons is **not to be considered an exclusive private producers' individual right nor a commercial exploiters' right**

What needs to be done? Transformation processes

(1) transforming the **understanding of intellectual property**

What was feasible with respect **to patent right** – no longer a professor's/inventor's right but now a **right of their institutions**

should be possible with respect to copyright

That means: **overcoming the objections against an institutional mandate**

What needs to be done? Transformation processes

(2) developing a **new understanding and practice of copyright**

Overcoming the systems of exceptions/limitations in copyright

for **science and education** a **generic clause is needed**
rather than a set of exceptions

right to use published information for any ethically and
justifiably purpose in science and education **without**
asking permission
(but with reasonable **remuneration**)

What needs to be done? Transformation processes

Art. 5.2– Uses for the purpose of freedom of expression and information

(2) The following **uses** for the purpose of freedom of expression and information are **permitted without authorisation**, but only against payment of **remuneration** and to the extent justified by the purpose of the use:

- (a) use of single articles for purposes of internal reporting within an organisation;
- (b) use for purposes of **scientific research**.



The Wittem Project

European copyright code

April 2010
www.copyrightcode.eu

A generic clause for science and education

**A proposal by the Coalition for
Action
"Copyright for Education and
Research"
2010**

Similar:

- The Alliance of German Science Organisations (AvH, DAAD, DFG, FhG, HGF, HRK, MPG, WGL, WR)
- Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany

What needs to be done? Transformation processes

§ 45b Education and Science

(1) **Copying, distributing and making published works available to the public** is permitted for **personal use in science and for educational purposes** in schools, institutions of higher education (such as universities), and **other non-commercial institutions** dedicated to education, continuing and professional training.

provided that the source from which the reproduction is made is not an obviously infringing copy
from a **legitimately acquired** copy only,
e.g. from a **library** or bought from a
commercial provider

**not restricted to publicly
financed science**



Coalition for Action

"Copyright for Education and Research"

Aktionsbündnis „Urheberrecht für Bildung und Wissenschaft“

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<http://www.urheberrechtsbueandnis.de/index.html.en>

The Göttingen Declaration on Copyright for Education and Research of 5 July 2004

Göttingen Declaration for printout: [\[PDF-file\]](#) [\[RTF-file\]](#) [\[DOC-file\]](#)

Next Relevant Dates

November 11th – 12th 2010:
**Annual Conference of the
Coalition of Action**
Berlin *(more...)*

News

[RSS](#) 0.92

September 24th 2010:

In a digitised and networked information society, access to global information for the purposes of education and science must be guaranteed at all times from any place.

build on existing knowledge. The legal provisions set a law will determine whether open, networked commun continue to develop in our society in the long term. TI



www.ences.eu

European Network for Copyright in support of Education and Science

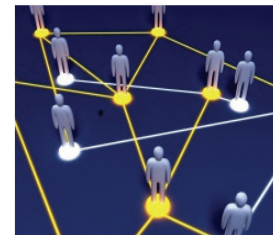
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About ENCES

ENCES (European Network for Copyright in support of Education and Science) is an EU-wide network of organizations and individuals in science and education who share the view that copyright is a socially valuable construct and that the primary objective of copyright is to promote the progress of science, education, and culture as public goods.

ENCES' basic assumption is that knowledge and information in its digital form should be made available to everyone from everywhere and at any time under fair conditions. This is particularly true in science and education, where access to knowledge and information is indispensable.

[More information \(pdf\)](#)



News

[New Directive on Orphan Works?](#)

According to reports from Brussels a draft of an EU directive on the mutual recognition of orphan works in the sector of text works will be published within the next few days. This is really overdue... [\[mehr...\]](#)

[IFLA Press Release on library and archive copyright exceptions](#)

"The 21st Session of the World Intellectual Property Organisation Standing Committee on Copyright and Related Rights (SCCR) took place in Geneva on November 8-12, 2010. At the meeting's conclu... [\[mehr...\]](#)

[UK to review copyright laws](#)

In a speech held on 4 November 2010

Conclusion

Knowledge is the water of the mind

absolutely necessary for development and cultural survival

as water for the physical survival

Knowledge and its derivative information products **cannot**
be subject of exclusive private property rights

Production and use of knowledge and its derivative information
products **depend on commons-based institutionalization forms**
adequate to electronic environments

commons-based information markets do not make the
commercial use of knowledge and its derivative
information products **impossible** but rather are the realistic
chance for the **information economy to survive successfully**

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attention***

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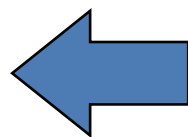
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Neue Meldungen

Verwaiste Werke und Gemeinfreiheit - eine Betrachtung auf keimform.de 0

Auf keimform.de erschien heute morgen eine kleine Zusammenfassung zu aktuellen Positionen zum Umgang mit verwaisten Werken, die zu der...

11.12.2010 - 11:03

Tim Renner über Wikileaks und Digitalisierung, bei CARTA 0

"Erschrocken und amüsiert zugleich fragt man sich da als Musikwirtschaft, ob man vielleicht zu milde mit den Piraten und anderen...

11.12.2010 - 10:51

Das Metadatenmanifest des BVPA 0

In dieser Woche veröffentlichte der Bundesverband der Pressebild-Agenturen und Bildarchive e.V. (BVPA) ein...

10.12.2010 - 13:33

Die taz zum Leipziger Lehrbuchstreit 0

In der taz gab es gestern einen weiteren Artikel zum Leipziger Fall um den Journalistik-Professor...

10.12.2010 - 12:52

Matthias Spielkamp zur Perlentaucher-Entscheidung 0

Matthias Spielkamp kommentiert bei Dradio-Wissen die...

10.12.2010 - 11:31

Neue Blogbeiträge

Das Edukt zum Edikt: Schwedische Wissenschaftler reagieren auf OA-Vorgaben des Vetenskaprådet 0

Die FAZ hat heute in ihrem Teil „Forschung und Lehre“ einen weiteren Artikel zum Thema Open Access. (Kaupe, Jürgen: Chemiker über...

08.12.2010 - 18:42

Deckelung der Abmahnkosten: Erste Leitlinien zu § 97a Abs. 2 UrhG 0

Die beiden Rechtsanwälte Jörg Faustmann und Gabriel Ramsperger erläutern in einem kompakten Aufsatz die gesetzlichen Voraussetzungen,...

08.12.2010 - 17:54

In eigener Sache: Der IUWIS-Besprechungsdienst 0

"Die Herausgeber legen hier mit den ersten Band dieses Archivs dem Publicum vor. Sie beglaubigen sich, demselben eine...

06.12.2010 - 21:22

Aus der Literatur: Winfried Bullinger, Markus Bretzel, Jörg Schmalfuß [Hrsg:] Urheberrechte in Museen und Archiven 0

Buchbesprechung zu Winfried Bullinger, Markus Bretzel, Jörg Schmalfuß [Hrsg:] Urheberrechte in Museen und Archiven. Baden...

06.12.2010 - 11:41

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- » Aus der Rechtssprechung

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