



Creative Business in the Digital Era



OPEN RIGHTS GROUP



Sessions

- 01** Case study 1: Tom Reynolds & Friday Publishing
- 02** Case study 2: John Buckman & Magnatune
- 03** Case study 3: David Bausola & Where are the Joneses?
- 04** Five next steps
- 05** Carrying the conversation on
- 06** About the Open Rights Group



Case study 1: Tom Reynolds & Friday Publishing

Tom Reynolds is an Emergency Medical Technician and blogger, who writes about his ambulance work on his blog, *Random Acts of Reality*. In 2005 he compiled some of his blog entries into a book, *Blood, Sweat and Tea*, published by The Friday Project, who specialise in taking content from the web and publishing it to a mainstream audience. *Blood, Sweat and Tea* has sold very well: it reached eighth in the Amazon.co.uk bestseller chart and has been in the top 100 almost continuously. It was The Friday Project's top-selling title for 2006, and was nominated for Best Innovation at the 2007 British Book Industry Awards.

Tom decided to publish his book simultaneously in print and online, in full, under a Creative Commons "Attribution, Non-commercial, Share Alike" licence (CC BY-NC-SA) and The Friday Project agreed, hosting a PDF of the entire book and offering to host any derivative works created by readers. The Friday Project already knew about CC licences and felt that making the book available online would build interest and that downloads would translate into real sales. Rather than viewing it as a risk, they believed that the free electronic version of the book would promote the print version, and that sales would improve as people could 'try before they buy'.

Technically, the project was very simple because the files were small enough to be offered as a direct download, in PDF or plain text formats, and CC licences are very easy to obtain from the Creative Commons site. The PDF was produced using the page files from the book, which were considered to be already very readable and user-friendly. The project incurred no additional costs for either Tom or The Friday Project; although Tom expected additional bandwidth bills, these did not materialise.

Neither Tom nor The Friday Project ran into any legal problems, although Clare Christian, MD and Publishing Director for The Friday Project said that distributors might have had objections, because they receive commission on sales and so may have felt that giving the book away was an unnecessary risk. However, given the small scale of the experiment, Clare believes they turned a blind eye.

Tom was keen to release the book under CC, so that others could make derivative works such as translations and plays. In reality, people converted it for reading on different e-book readers. These non-commercial reuses didn't prevent Tom from selling commercial rights for TV, film and radio. Through The Friday Project, Tom has sold the BBC a radio adaptation, and a TV option to production company Mentorn. Tom has made about £7,000 in royalties from *Blood, Sweat and Tea*, and both book and blog have opened up many opportunities for him, including writing for newspapers, radio appearances and the possibility of writing for television drama *Casualty*.

The risk of releasing a free version was that people would not buy it, but read the CC download, thus cannibalising sales. Clare says that if there had been any evidence of this, she would not have gone ahead. Instead, she believes that Tim O'Reilly is correct when he says that obscurity is a far greater threat to an artist than making their works available online. Tom did receive some attention from the media for the book – on TV, radio, and in print. Most of the coverage was about his job; only print journalists seemed interested in the Creative Commons story. But according to Clare, the CC experiment prompted more publicity and discussion within the trade press.

Over a year after publication, it is clear that the free online book hasn't damaged sales. *Blood, Sweat and Tea* remains one of The Friday Project's best sellers, selling about 25,000 units. That would be a strong performance for any publishing house, but is very good for a small publisher. Indeed, The Friday Project saw a spike in sales when the CC edition was released, although it is difficult to be sure whether that surge was a direct result of the release of the free version, or just an increase in interest because of media attention.

Tom believes that one of the most important factors in the book's success was the community that has built up around his blog, which is very popular and garners a lot of



Case study 1: Tom Reynolds & Friday Publishing (cont.)

attention. He feels that it is important to have a community of readers before releasing a book, the same way that a band gigs before releasing an album.

Both Tom and Clare went into the experiment with very open minds, and have been pleasantly surprised by its success. The only disappointment for Tom was lack of engagement from his readers with the Creative Commons version. The licence Tom chose allowed for reuse, but very few people made derivative works. This may have been due to a lack of promotion of the CC version, but was certainly not helped by a server crash that lost many of the new e-book versions people had made. Clare would have liked to have spent more time and resources promoting the Creative Commons edition, and Tom has vowed to promote the CC edition of his next book more heavily.

The publishing industry is struggling to come to terms with the way that the internet is changing their business, and Clare believes that the only way forward is to accept it and adapt to it. She and Tom foresee the industry shifting to a new model where the author is more visible than they have traditionally been and are at the centre of a community of committed fans. Neither of them see Tom as a special case, and believe that any author or publisher can use the same model.

The future is not predictable, though, and there is the possibility that advances in e-book reader technology could damage this business model by making print books unnecessary in the way that MP3 players have made CDs unnecessary. But neither Tom nor Clare believes that the technology is close to achieving that yet.



Case study 2: John Buckman & Magnatune

Magnatune, a record label founded in 2003, is a pioneer of open music, the most successful attempt to embed Creative Commons (CC) licences in a sustainable commercial venture, and an early adopter of variable pricing. Initially conceived as part online radio station, part retailer and part licensing-suite, the business model continues to evolve in response to consumer and technology trends.

Founded by John Buckman, Magnatune is focused on supporting musicians in musical genres marginalised by the record industry. To this end, Magnatune offers 50/50 deals, splitting gross profits (i.e. total income received from sales) between the musician and the label.

Magnatune's website serves around 45,000 listeners every day, from a catalogue comprising 264 artists and 582 albums. Most visitors and sales are from the US, Europe and Asia.

Magnatune's most popular genre by far — with 30% of sales — is classical, followed by new age, electronica and rock, which represent around 10% of sales each. The classical market is in serious decline: In 1980, classical recordings comprised 20% of the industry's revenue, which dropped to 2% by 2000, and to 0.75% in 2006. Yet Magnatune has seen 20% growth annually since autumn 2003.

John recognises that obscurity is a musician's biggest hurdle, and his innovative approach to overcoming it is to provide 'open music', which is "shareable, available in 'source code' form, allows derivative works and is free of cost for non-commercial use."

Shareable: Users are invited to share their purchased tracks with up to three friends, can listen to the entire catalogue for free via the website's 128kbps streams, and can download any song as a 128kbps MP3 file.

Available as 'source code': Ten per cent of the catalogue is also available in its component parts, e.g. scores, lyrics, MIDI files, samples or track-by-track audio files.

Derivative works: The CC licence used by Magnatune explicitly permits users to make derivative works - such as remixes, cover songs and sampling - for non-commercial purposes, which is further facilitated by the provision of the 'source code'.

Free for non-commercial use: Users can download songs for non-commercial projects, such as a home video soundtrack or compilation album intended for family or friends. Magnatune is also very supportive of podcasters, and allow them to use 128kbps MP3s for free, with higher quality WAV files available for a small fee. Regardless of format, podcasters are given a royalty-free license to play and promote Magnatune's music.

Fan purchases make up about half a musician's income, with the remainder coming from commercial licensing fees. John sees bulk discounts and wholesale as an important feature of the current digital ecology, and that the ability to compete in this area depends on the cost-savings offered by the internet and the use of standard licences, (which remove the need for expensive lawyers).

Magnatune are also willing to "license rights that no one else will". For example, Renault wanted a pre-loaded, DRM-free 30 gigabyte hard drive — amounting to hundreds of albums — for their cars at a price of less than \$200 / £100 per unit, meaning a cost price well below \$2 / £1 per album. John was happy to make a deal traditional labels wouldn't.

Since the beginning, Magnatune has offered a free music stream as a version of 'try before you buy'. In practice, the conversion rate from listener to buyer has dropped from 1:20 to 1:42. John attributes this to the growth in competing offerings, and downloads becoming less compelling because listeners are rarely offline. This drop has been managed by dramatically reducing costs and the service will remain profitable until the ratio drops below 1:200.



Case study 2: John Buckman & Magnatune (cont.)

Magnatune uses a variable pricing model as standard, inviting customers to pay whatever they consider fair within the range \$5-\$18 / £2.50-£9. Fifty per cent of customers spend between \$8-\$9 / £4-£8, well above the minimum.

Magnatune's community has played an important role in the label's success, with a Founder's Blog, forums, email lists, and a MySpace page, but the majority of the community is distributed across blogs, forums and email discussion groups elsewhere on the internet. This has resulted in a "brand presence" several orders of magnitude larger than their market size would suggest.

But there are two potential drawbacks to the Magnatune business model, and open music more generally:

First, making the catalogue available for free risks devaluing the works, because some people will only use the free versions. John feels this is not a significant risk because those people can easily find what they want on P2P networks and torrents, regardless of Magnatune's free offerings.

Second, their free model, along with the lack of an advance against royalties, could turn off some musicians. This has not been a significant hindrance in practice, because many musicians are attracted to Magnatune specifically by the concept of open music.

Magnatune appears to be a solid success in terms of John's modest ambition to do "something neat that might get noticed". Financially, the target of becoming self-sustaining has been achieved. The hard target – providing an income of \$10,000 / £5,000 per year to a third of the artists signed to the label – has not yet been reached, although three of its artists at this level and a further 30 receive \$3,000 / £1,500 per year.

The technical barriers to establishing an open music label are "pretty light". The website, which serves streams and downloads to customers and takes their payments, is relatively simple to produce using widely-available software tools. In John's view, the main barriers are social, with the biggest challenge being to locate and engage with an audience.

But this model is not immune from social and technological developments. John predicts that the "mobile, always-on internet good enough to stream audio everywhere" is only a few years away, and once everyone has 24/7 connectivity they are unlikely to pay for – or even want – downloadable music. When this point is reached, the label must move to a new business model, be it subscriptions, live music, t-shirts or something else. There may also be problems if musicians' unions or other regulatory authorities mandate the use of DRM, or if legal reform mandated a pay-per-stream model, which would increase Magnatune's costs to an unbearable level.



Case study 3: David Bausola & Where are the Joneses?

David Bausola is a creative technologist at communications agency Imagination who, together with Rob Myers, developed a commercial media production model based around the Creative Commons Attribution-Sharealike (CC-BY-SA) licence. The model was successfully deployed in 2007 as *Where are the Joneses?*, a marketing project for Ford of Europe commissioned by Imagination and realised by TV production company Baby Cow.

Where Are The Joneses? is, from one perspective, a cult situation comedy featuring two characters searching Europe for their siblings. It is a collection of 90 short films, each between two and seven minutes long, which were produced and published direct to the web by a five-person production team that toured Europe during summer 2007. There was no centralised website for the content. Instead there were multiple channels, including a blog, wiki, Facebook group, Flickr photoset, collection of YouTube videos and a Twitter stream.

Users were invited to engage through these channels directly with the production team and could:

- Influence where the Joneses go next
- Influence the plot and the dialogue
- Appear in the series
- Remix the videos and re-upload to YouTube
- Make soundtracks for the Joneses
- Make animations of the Joneses
- Do anything else they can think of

This latter invitation, which called on the audience to express their own creativity, treated them as active participants rather than passive consumers. Scripts were written in collaboration with a community of users. Submissions were handled by a team of three moderators who provided feedback to help develop ideas and then passed the polished suggestions onto the production team.

Everything created for *Where Are The Joneses?* was published under a flexible CC licence which permitted even commercial reuse to foster a new kind of two-way relationship between a brand and its public. The project embodied the shift from a broadcast to a conversational model by enabling “many-to-many” rather than “one-to-many” communication.

The decision to permit commercial exploitation allowed downstream users to incorporate *Where Are The Joneses?* source material in any project, whether for business or personal use. Counter-intuitively, this hasn't precluded the creative output of the project from generating income.

Unusually for marketing activity, the project was engineered to directly recover some of its costs: the budget Ford allocated was intended to become self-sustaining. Income is generated not from fees for licensing the copyright, but from charging to re-edit, add artwork and otherwise repurpose the footage and short films.

Ford also benefits by saving on expensive broadcast advertising slots because *Where Are The Joneses?* was distributed to its global fan-base online via the Internet Archive, which fed YouTube and standalone players like Miro. Although these platforms do not generate per-use royalties, the actors are contracted to receive standard fees if the materials are used for DVD and broadcast purposes.

David sees the technical barriers to realising the project as relatively light. *Where Are The*



Case study 3: David Bausola & Where are the Joneses?(cont.)

Joneses? involved very little bespoke work, and was largely carried out with widely available tools, such as Yahoo! Pipes, wikis and blogs, using the web as a platform to facilitate community participation and then distribute video output. Indeed, the most significant technical hurdles were faced by the production team as they travelled Europe for 90 days, filming everyday then editing and uploading video to the web from a laptop in the back of a car.

No project is risk-free and Ford's lawyers were concerned that someone would exploit the videos for negative publicity by producing something to deride the brand. This risk was mitigated firstly by Ford owning the domain name so that they could pull the plug if anything went wrong. If they had, anyone looking for the project would find some of the project's content scattered across the web, but without logos or links back to the brand itself.

Secondly, the most recent CC licences contain a clause that prohibits users of works from degrading the spirit of the project. This gave Ford a firm legal footing to restrain any defamatory use of the work. In reality, there was no need to take either action.

The project also had to overcome significant social barriers. David used a PR agency to secure press coverage of the project, yet many journalists were stumped by the complicated concept and failed to cover the project with any clarity. They found it difficult to understand the fuzzy, but important, concept that *Where are the Joneses?* means different things to different people.

Commercial practice also caused problems: Companies generally retain different agencies to manage the different aspects of public interaction — from print to TV to retail outlet - which can make cross-media projects very difficult as they require teams from multiple agencies to co-operate in unfamiliar ways.

Where Are The Joneses? is a watershed project. It is a first in this context in terms of wholehearted, open public engagement by a multinational corporation. David feels that, despite having no firm expectations for how the project would run, they “massively over-achieved”, not just in the amount of conversation the project engendered, but also the fact that the assets are to be picked up and reused by Ford for future promotion.

David would have liked to take the experiment further by supporting a larger community through providing more feedback on the submissions. He also would have liked to have created “micro-episodes”, producing 20-second snippets rather than the longer videos.

Brands need public engagement if they are to survive in a global market of ever-cheaper goods and services. The conversational, two-way dialogue at the core of this model represents a genuine effort in this direction.



Five next steps

Name

Date

1

What will I do next?

How will I do it?

When will I do it by?

2

What will I do next?

How will I do it?

When will I do it by?





Five next steps

3

What will I do next?

How will I do it?

When will I do it by?

4

What will I do next?

How will I do it?

When will I do it by?



5

What will I do next?

How will I do it?

When will I do it by?



Carrying the conversation on

Full case studies and notes for all the sessions are available on the Creative Business in the Digital Era site, at:

<http://www.openrightsgroup.org/creativebusiness>

The site contains a wiki for ongoing research and discussion. Anyone can create an account, so we encourage you all to take part, whether by editing and expanding the information already there, or by adding your own ideas, experiences and research.

If you would like to reuse any of the materials in this pack or on the Creative Business site (wiki and blog), you are free to do so, whether for commercial or non-commercial purposes, so long as you attribute the Open Rights Group and use a Creative Commons licence for your work. All materials are published under a Creative Commons BY-SA (attribution-sharealike) licence.



If you would like to get in touch, please email **creativebusiness@openrightsgroup.org**



About the Open Rights Group

The Open Rights Group is a grassroots technology organisation which exists to protect civil liberties wherever they are threatened by the poor implementation and regulation of digital technology. We call these rights our “digital rights”.

In 2005, a community of 1,000 digital rights enthusiasts came together to create the Open Rights Group. Since then, ORG has spoken out on copyright term extension, DRM and the introduction of electronic voting in the UK.

We have informed the debate on data protection, freedom of information, data retention and the surveillance state.

These are issues that affect all of us. Together, our community, which includes some of the UK’s most renowned technology experts, works hard to raise awareness about them.

If these are issues that you care about, become part of our community and support the Open Rights Group today.

Support the Open Rights group

The Open Rights Group **is** its supporters. Your regular financial contribution enables ORG to raise awareness of digital rights issues by staging public events across the country, lobbying the British and EU Parliaments and monitoring and engaging with the national and international press.

When politicians talk to ORG, they know they’re talking to a group that is funded by their voters and they listen and act accordingly.

The best way to support ORG is through a regular standing order, but you can also setup a subscription with PayPal and make one-off donations.

For more information go to:

<http://openrightsgroup.org/support-org>

Thanks to Alex Roberts at Creative Commons (creativecommons.org) for the front page logos and thanks to Chris Adams at Stemcel (stemcel.co.uk) for designing the course literature.

