

A healthy public domain generates millions in economic value—not bad for 'free'

March 26 2015, by Kristofer Erickson



Usefulness and value extends far beyond the century in which they were created.
Credit: British Library

It's frequently claimed that copyright law should be made more restrictive and copyright terms extended in order to provide an incentive for content creators.

But with growing use of works put into the [public domain](#) or released under free and permissive licenses such as [Creative Commons](#) or the [GPL](#) and its derivatives, it's possible to argue the opposite – that freely available works also generate value.

Public domain works – those that exist without restriction on use either because their [copyright](#) term has expired or because they fall outside of the scope of copyright protection – create significant economic benefits, according to research my colleagues and I have conducted, now published in a [report](#) for the UK government's [Intellectual Property Office](#).

We found a surprising amount of [transformative reuse](#) of [public domain](#) materials by commercial users – economic value that wouldn't have been possible without access to a thriving public domain. We tried to identify precisely how and where economic value is generated from public domain works in order to establish where there's scope for improvement.

Setting the copyright term

Literary and artistic works in the UK are [protected under copyright for 70 years](#) following the death of the author. At that point, copyright expires and anybody may copy the work and make it available to others. Consumers can then enjoy the benefit of accessing the work for a lower price, and in some cases for free. For example the [Project Gutenberg](#) releases digital versions of classic literary texts that are in the public domain. The British Library's [Mechanical Curator](#) project digitises illustrations from printed books and makes them available on [Flickr](#).

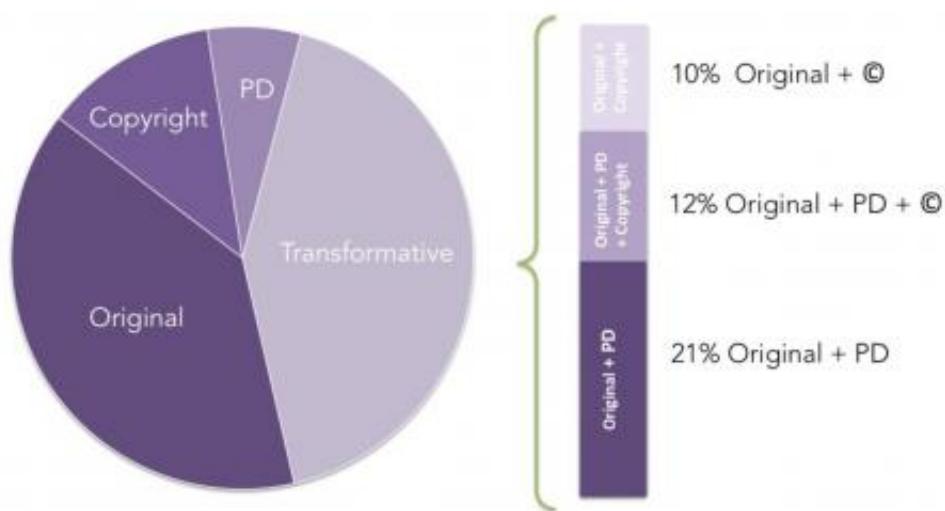
Conversely, this means rights holders will no longer be able to restrict copying of their work and will potentially lose revenue. It's for this reason that some rights holders have lobbied governments to extend the scope of copyright so that they can continue to extract revenue from a small number of old, popular works. The Disney Corporation is one example: Some works featuring Mickey Mouse would have fallen out of copyright in 2003 had US Congress not passed the Copyright Term Extension Act in 1998 (derided by some as the [Mickey Mouse Protection Act](#)), which extended the US copyright protection from 50 to

75 years (95 years for corporate works).

Protection or obstruction?

Some economic theorists argue that long or indefinitely renewable copyright protection is an optimal solution because it creates an incentive for rights holders to keep works available. However, even in-copyright works can disappear from the market because rights holders decide that it's not worth the effort to print or publish the work.

Copyright Status of 1,993 Kickstarter Media Projects



Source: Erickson et al (2015)

Public domain and other works on Kickstarter Credit: Kristofer Erickson, Author provided

Another, perhaps more important, problem is that it's difficult to build

upon works protected by copyright to create new products. It's costly and time-consuming to seek permission to use a work, and sometimes the original creator (or those to whom the rights have passed) cannot be located or does not wish to allow a derivative use.

For example, David and Stephen Dewaele, the Belgian brothers behind [2ManyDJs](#), had to have 187 samples approved in order to release their 2002 album [As Heard on Radio Soulwax Pt. 2](#). Rights owners rejected 62, 11 were untraceable, and 114 were cleared – a process that took the best part of [three years](#).

[Creative Commons](#) licenses were developed to help solve this problem. By stating terms for the attribution and use for a work but freeing it from copyright restrictions from the outset, a Creative Commons-licensed work reduces costs for those wishing to use it and allows them to make use of a work [within the bounds of the licence](#).

Use and re-use

We interviewed UK media firms and found that those that had worked with public domain materials were not put off by the fact their source material could also be used by others. Many firms reported that they saw their contributions as part of an ecosystem in which the joint efforts of creators, fans and audiences enriched a narrative product not owned by a single contributor.

Using data from crowdfunding platform Kickstarter, we examined how products based on public domain works performed compared with entirely original products or those under copyright. We found that public domain-inspired works were more likely to succeed and raised more funding (56%) compared with untested, entirely original projects. We also found that a third of all crowdfunding pitches incorporated various sources of intellectual property and derived works into the final product.

Finally, we looked at how the availability of public domain materials could add value to non-commercial products or services, which may in turn create a commercial benefit. For example Wikipedia relies on public domain and Creative Commons licensed images to illustrate its pages. By extrapolating from a sample of 1,700 biographical pages for notable authors, musical composers and lyricists, we arrived at an estimated value for public domain images across English language Wikipedia.

Based on the costs of providing replacement images from commercial sources, we estimate that public domain material contributes £138m per year for the 1,983,609 English language Wikipedia pages. Having controlled for the notoriety of certain persons or subjects on Wikipedia it's also apparent that pages with public domain images (rather than none) attract between 17-19% more visitors. Were Wikipedia a commercial website with advertising, the increased traffic would generate an additional £22.6m a year.

Digital creativity and innovation are vital components of today's economy. Any policies that encourage growth in the creative industries should not only consider the value represented in the trade of copyrighted works, but also the range of public domain material that inspires or forms the basis of new products – and the importance of protecting and nurturing a thriving public domain.

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