



Creative Rights

Digital Responsibilities

Creative Rights, Digital Responsibilities

Introduction

This educational resource encourages and supports an exploration of issues relating to creativity in the digital age. In this booklet, you will find information from a range of sources relating to intellectual property, innovation and the creative industries – from music and film through games, fashion and design. Students of the Creative and Media Diploma, as well as those taking General Studies or Critical Thinking at Advanced Level, will all find interesting subject matter for their studies. Each section takes students through a range of activities designed to develop independent enquiry as well as encouraging debate of key issues.

Context

Creativity and originality seem to be gaining economic, social and cultural significance; at the same time, digital technologies continue to develop in both influence and availability. Advancing technologies have had a real impact on the creative industries: digital photography; Computer Aided Design; MP3 technology and even simple film editing packages have all made a big difference to the ways creative outputs are produced and consumed. Yet we still see technology and creativity presented in opposition. So where does this idea come from – and is it a false dichotomy?

According to the media there is a growing disparity between the rights and responsibilities of creative producers and digital consumers. Questions of ownership and privacy, and of individual freedoms and content control, are increasingly reported in the news. Political, industrial and consumer bodies debate these issues in the context of their own interests: users expect to access any and all content quickly, easily and often for free, whereas rights owners may want to control the ways in which their content is viewed and used. As these issues increasingly come to the fore, an understanding of the debate and its origins becomes essential.

Ways to use this Resource

The material in this booklet is divided into six sections with each section comprising information, discussion points, questions and research tasks. This booklet can be used in a range of ways: as a stand-alone unit; for extending learning; or as a workbook for individual study. Whilst the resource is broadly linear from chapter to chapter, it is also easy to address the chapters in a different order, or to dip in and out as appropriate.

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Section 1: Creative Industries

What are they? How have they developed historically? Why do they matter today?

Before exploring the creative industries and the UK economy, it makes sense to consider what exactly we mean by the terms ‘industry’ and ‘economy’. The British economy could be described as a system of consumer and business transactions, of goods and services produced and distributed; it includes various forms of wealth such as currency, stock and trade. An industry is made up of companies and businesses that deal in broadly similar goods, services or ideas. Industries can be categorised as primary (extracting raw materials), secondary (processing materials or making products), tertiary (providing services) or quaternary (concerned with research and development).

Think of a type of business that matches each of these categories.

Do you know of any companies that span two or more of the stages of production?

British Invention

British industry developed as a leading global force in the late eighteenth century in a period known as the Industrial Revolution – an explosion of technological developments that allowed goods to be produced, transported and exported on a massive scale. Innovations such as steam power, gas lighting and machine tools were developed by British inventors. From railways and canals to factory machinery, cotton mills and shipbuilding, British invention was ahead of the game globally and so British industry cornered a huge portion of the market, using its technological advances to press its advantage. Developments in agriculture meant crops could be grown and harvested more easily than before. Railways, canals and roads were built allowing goods and people to be transported across the country and abroad.

As manufacturing industries sprung up, so people moved from the country to the new cities supplying a huge workforce and massively expanding populations in areas such as Manchester and Bristol. Yet the rapid expansion created problems too: pollution, overcrowding and poor conditions, not to mention child labour. Technological advances may bring great benefits to a population; they can also be detrimental as individuals and existing businesses are forced to adjust to the new climate.

These fundamental changes had an impact on daily life for so many people and it’s no surprise that not everyone was happy with the shift to a manufacturing society. An artistic movement called Romanticism put a high value on the power and beauty of nature, viewing the new industrial infrastructure as a blot on the natural landscape. Romantics also put a high value on originality and felt that factory production eroded this important artistic quality: machines could never turn out individual pieces of craft in the way a human being could.

Task

1. Do you know of any countries currently experiencing industrial expansion in the way that Britain did during the time of the Industrial Revolution?
2. Are these countries also experiencing any of the problems that the Industrial Revolution caused in Britain?

British Industry Today

Nowadays, Britain's manufacturing industries play a much smaller role in the economy as a whole. Primary industries extracting natural resources (coal, tin) have largely dried up, and we no longer manufacture and export goods on the scale we once did. Emerging economies with large and competitively priced labour forces, such as India and China, lead the way on manufacturing and Britain's production has shifted into other areas.

Having read about what Britain used to produce, think about what the British economy does now.

Research Task: Innovation

1. Can you think of any British companies, products or ideas that are known and used throughout the world? Make a list and compare with another individual or group.
2. What innovations have come out of Britain in the last fifty years? List a range of key examples across at least three sectors.

Creative Sectors

Service industries, and in particular financial services, make up a large proportion of the wealth generated by the British economy today. Yet in recent years, the creative industries have come to play an increasingly significant role as well. But what exactly are the creative industries, and what do they do?

Sectors within the creative industries include:

- film
- music
- design
- fashion
- computer games and software
- publishing

Can you name any British companies working within these sectors? You may need to conduct some research online, or from another source, to find company names.

Apart from those listed here, can you think of any other sectors that could be included within the creative economies?

Extended Research Task

This task is designed to give you an overview of three sectors and a more detailed knowledge of a particular business or organisation of your choice. Finally, you will present your findings to your class or group.

1. Conduct your own research into one of the creative industry sectors listed above. Find out what sorts of products or services are created within that industry, the kinds of processes (and technologies) they use, and find examples of UK businesses within these sectors.
2. Now create a more in-depth profile on one of these businesses. Find out how it is organised and what kinds of jobs there are within the business; think also about how the business researches and develops its products, ideas or services. What sources of inspiration do they draw on? And who is their target market?
3. You could create an illustrated presentation or a short documentary-style film to record your findings.

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Section 2: Valuing Creativity

How do you put a price on creativity? What's the value of creative products and services – Economically? Socially? Culturally?

Looking at the Numbers

In 2006 in the UK, there were an estimated 120,700 businesses in the creative industries. In that year the creative industries employed well over a million people in the UK (Creative Industries Economic Estimates Statistical Bulletin, October 2007). But what is the real value of creative goods and services in the marketplace?

Placing an economic value on anything largely comes down to two factors: how much there is of something, and how many people want it. This is called supply and demand. The higher the demand for a product or a service, generally the higher the price, and something which is not readily available tends to cost more than something that is easy to get hold of. Think of some examples to illustrate these economic principles.

Everybody needs water: you could say that drinking water is a precious commodity. Not many people 'need' diamonds: they are not essential to survival. So why do diamonds cost so much more than water? This is referred to as the 'paradox of value': you can find out more about this by searching online.

The Price of Art

Diamonds can change hands for incredible sums of money; but then, so can works of art - particularly well-known pieces or works by famous artists. These sales follow the idea of supply and demand referred to previously: could you explain how?

Guesstimate Auction

The following descriptions relate to real works of art that have changed hands in recent years, often for huge sums. What value would you place on each of these based on the description alone?

- a) A biblical scene with many figures, painted 1611. Oil on wood – 140cm x 160cm
- b) A still life of a vase of flowers using thick oils on canvas, painted 1888. Size 95cm x 73cm
- c) An abstract painting of colour freely applied to canvas, painted 1948. 240cm x 120cm
- d) Portrait of a famous movie star from the 1950s, in artist's distinctive style; painted 1963. 100cm x 100cm

(d) Andy Warhol – Liz (coloured Liz) 1963, \$23 million – around £11.5 million

Vincent van Gogh; bought in 1987 for £27 million **(c)** Jackson Pollock No.5, sold in 2006 for \$140 million – around £70 million

(a) Massacre of the Innocents, Peter Paul Rubens last sold in the UK in 2002, for almost £50 million **(b)** Vase with Fifteen Sunflowers;

Answers

You may have heard of some of these artists; one famous, and controversial British artist, is Damien Hirst. This artist from Leeds has drawn critical attention for his displays of animals in formaldehyde and more recently for a diamond-encrusted platinum skull which sold for £50 million. He gave the skull the title 'For the Love of God'. Interestingly, the skull was bought not by one very rich fan but by an investment group. The group hoped the skull's value would increase in the future so they could resell it for a considerable profit. The artist also kept a share in the skull.

Even if Hirst had sold all his shares in his diamond skull sculpture, he would still hold the copyright in the piece of art – and this is true for any artist, at least while they are still alive. But what does it really mean to hold the copyright to a piece of art? Basically, it means that the artist can control whether any reproductions are made, and whether images of the artwork are used in advertising campaigns, for example. It's the same for other artists, such as authors and musicians. The person who 'owns' the piece of art just owns it as a physical good – they haven't got the right to control where and how reproductions are made, or how images of it are used. The copyright over a piece of art can be very valuable to an artist when other people pay for the right to use it.

Points for Discussion

1. Obviously the prices paid for famous paintings go well beyond the cost of the materials involved in making them: so what are the buyers paying for, and how do you think they justify these prices? Do you think the sums paid here reflect the 'true' worth of each painting? Explain your answers carefully.
2. Why would someone pay a huge sum for a piece of art when they could get a digital print for a fraction of the cost?
3. What about when a piece of art is re-sold, or changes hands – do you think the artists themselves should get a share of the profits then? Research 'Artists' Resale Rights' online to find out the latest on these issues.
4. What about if the artist only becomes famous after their death – where do you think the money should go?

Damien Hirst's platinum skull became the most expensive piece of modern art ever sold, clearly benefiting the artist in terms of finance and reputation. Diamonds and platinum are expensive materials and this may account for some of the skull's cost. Yet a 2008 sale of other pieces by Damien Hirst's art goes to show that the value of art bears little relation to the cost of production. One of his pieces, 'Memories of/Moments with You', made from diamonds and gold-plated steel sold for £2.6m. Another, a glass case of fish skeletons and stuffed fish called 'Here Today, Gone Tomorrow', sold for £2.95m. Obviously this has nothing to do with the cost of the materials: fish bones are not more expensive than diamonds. So what gives these pieces their value? In this case, it was the supply and demand of the auction room in which they were sold that decided the final price.

Research Task

Choose one of the artists mentioned in this section and research their work and their reputation.

1. What have they created, and what of their work is most well-known?
2. What influence has their work had on people, and on art, over the years? Were their paintings valued highly during their lifetime?
3. Do you think they are underrated, overrated or valued correctly by modern society?

Art or Vandalism?

Many factors affect people's response to art works, and it is often said that art is subjective - that its value lies in the eyes of the beholder. Graffiti art, for example, often sparks debate about whether it is a legitimate form of artistic expression, or whether it is a criminal act.

Case Study: Banksy

'Banksy' is the name of a British artist whose identity remains something of a mystery. His stencilled street art appears in prominent public places, springing up overnight; it is often political in nature, mocking public figures and British institutions. Banksy's work is controversial, inspiring admiration as well as derision from various quarters. In some cases his artwork gets painted over or cleaned off, but in other places it has been allowed to remain. There have been several imitators of his style, making it difficult to tell whether a piece is really his or not. He has also produced works on canvas and has published books of collected images of his works.

Find some images of Banksy's work, and discuss the following:

1. Is a 'Banksy' a significant piece of art or is it glorified vandalism?
2. Do you think Banksy has a legal right to his art if he has committed a criminal act in creating it? Who owns the art: the artist, or the owner of the building he has used as a canvas?
3. What is a Banksy worth? Does it increase or decrease the value of a property?
4. How can you tell you've got an original Banksy, and what difference does it make?

Creative Costing

A live performance such as a play, a concert, a festival or a dance show usually comes with a price tag. The ticket price goes towards the costs of the performance, paying those involved in the organisation and setup of the event, as well as helping organisers re-coup their advertising costs. Some live shows or events sell out very quickly - there is more demand for the tickets than there is supply. On the other hand, sometimes a show will have to be cancelled due to low ticket sales: in these cases, the organisers can't afford to carry on and may lose money.

1. What kinds of events attract the highest ticket prices? Make a list of any that you can think of.
2. What factors do these events have in common - do there seem to be logical reasons for these high prices? Do any other factors come into play here?
3. What about shows that are put on for free: how do you think these are funded?

In some cases, live events are supplemented by further sales - for example, a live album or a DVD of a concert might be available to buy once the run of shows has ended. In this way the event can extend its earning potential beyond the live show. In some cases, these 'supplementary' sales are a more important source of revenue than the live event itself. In the creative industries, as with other industries, the choices people make in terms of buying a ticket or buying merchandise indicates the value of that product for the consumer - whether that product be music, performance, film, art or fashion.

Task: Designer Value

Choose a brand of designer clothing or footwear and find examples of print, television or online adverts for that brand.

1. Evaluate the advertising campaign: how is it designed to make people want the product? How is the brand represented or shown in the advert?
2. What kinds of people are the adverts targeting?
3. For each product advertised, research the retail price and consider whether this reflects the cost of production or whether there might be other reasons for the price charged to the consumer.

The Price of Film

A film you've been looking forward to for ages is about to come out at the cinema. Which of the following 'ways to see' would you choose, and why? Are there any factors preventing you from viewing in certain ways?

WAYS TO SEE	WOULD/WOULD NOT CHOOSE THIS BECAUSE...
Cinema	
DVD rental (through shop or postal service)	
Online movie rental (pay to watch the film online)	
Buying the DVD	
Other (describe)	

For one of the options above, consider what kind of people would be the most likely audience for that output: think about the most common age, gender, occupation and interests of the group most likely to view in that way.

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Section 3: Protecting Creativity

What is intellectual property, and what's it got to do with creativity? What is significant about intellectual property in the digital age?

Digital Culture

In modern Britain, many of us have access to a huge range of technologies that would have seemed bewildering to our ancestors. Today we can view, create, and re-create text and images quickly and at relatively low cost, with fast, cheap internet access making it possible to download, upload and share effortlessly. You might also say technology has made it easier to be creative: for example, digital cameras and editing software have made photographic art more accessible.

But does having a digital camera make you a photographer, or do talent and skill still count for something? Think about the skills and experience, not to mention the equipment, needed by a photographer on a fashion shoot and you begin to see the difference between the enthusiastic amateur and the experienced professional. What they have in common is a passion for what they do: creative professionals need enthusiasm, drive and energy to be successful.

Making Copies

Whereas today the price of digital cameras makes creativity affordable for many, in the past, only the wealthiest people had access to art. Royalty, nobility or members of the court who commissioned an artist to paint their portrait could do the equivalent of modern 'airbrushing' by instructing the artist to hide their less attractive features or to change their appearance completely. Kings and queens in particular would be very exacting about how they were represented: control of their image was as important then as it is to modern high-profile celebrities. In general, access to culture and education was limited to the richest and most influential portion of society.

These restrictions also extended to the written word. The development of the first European printing presses in the fifteenth century made it easier to create multiple copies of written texts: a great leap forward for the spread of culture and ideas. In England, the monarchy didn't want the wrong sorts of texts to be printed and so established control over all the printing presses – a control that was maintained for nearly two hundred years. The King or Queen had the right to say what could and couldn't be printed (copied), and who was allowed to do the copying - hence the term 'copyright'. By controlling the press the ruling monarch hoped to keep control over the information available to their subjects.

Discuss

1. Can you think of any parallels in the modern age where what people see and hear is controlled by certain individuals or groups?
2. Who would you say has the most control – Multinational companies? Governments? Rulers and leaders? Or the individual themselves?
3. Would you say social class is more or less important today in terms of people's access to and understanding of the world at large?

Copyright Control

The Statute of Anne of 1709 was the first copyright law in Britain to give control to the author of a written work, rather than the person printing it. This law meant that writers could decide where and how their work was reproduced and begin to make a living from it. The Statute explains the reasons for introducing a law on copyright in order to prevent problems caused by unlicensed copying '*without the Consent of the Authors or Proprietors of such Books and Writings, to their very great Detriment, and too often to the Ruin of them and their Families*', as well as '*Preventing therefore such Practices for the future*', the law was intended '*for the Encouragement of Learned Men to Compose and Write useful Books*'. It protected existing works and was designed to protect intellectual creativity into the future. Copyright Act 1709 8 Anne c.19

Nowadays 'copies' of original works are available in countless formats, such as digital music, image and text files, movie files and web design – and these files can be manipulated and reproduced. The ability to copy is certainly more freely available, but the right to copy other people's work is not so straightforward. The producer of an original work still owns the copyright to it: they own the content, and the expression of ideas. They don't actually own the copies themselves – so an author owns the text that makes up their novel, but they don't own all the copies ever made of that book, and it's the same for a musician and digital music files – they own the idea but not the object.

Making a Fake

In the art world, forgery is a recognised problem. An original Picasso is worth a lot of money, whereas a copy is not: but what if you can't tell the difference? And what is it that makes the 'original' more valuable than a forgery that looks identical? A similar problem occurs with currency. Coins and notes have a value in exchange for goods and services; in themselves, they're not worth very much at all – a pound coin would be of little value if you couldn't spend it. This value makes currency a target for forgers or counterfeiters producing fake money: a criminal activity that's problematic for businesses and consumers.

What happens when a shopkeeper won't take your money because you've ended up with a fake note or coin? There's not much you can do. Recent research has suggested that 1 in 50 pound coins in circulation in the UK is a fake; on a bigger scale, this sort of forgery can completely undermine a currency and cause severe economic repercussions. Knowingly using fake money to try and buy goods is a criminal offence.

Taking someone else's property without paying is one thing, but what about taking something more abstract – such as taking an idea? Copying another person's design; sampling someone else's music, using another person's idea – these can all be problematic, but the lines are less clearly drawn.

Discuss

1. Is a fake always less valuable than the real thing? You could refer specifically to art or money to help explain your answer.
2. Do you think it's possible to 'steal' an idea, and is it a worse or a lesser crime than stealing physical property?
3. Is it ever possible to have a truly original idea, particularly now that we are bombarded with media messages and images all day long?

Great Minds Think Alike...

Ever wondered how all the High Street fashion chains manage to have similar styles and designs at the same time? There's a long lead time on designing clothes, manufacturing them and getting them into the shops, so it's not as easy as just looking at next door's stock and copying it. In fashion retail, events such as London Fashion Week play a big part in influencing High Street trends: big-name designers showcase their latest looks whilst fashion journalists and buyers take notes and pictures of what they've seen. Styles, colours, patterns and fabrics are adapted and reinterpreted then filter down, and eventually end up in the shops.

Trends in design in everything from shoes to MP3 players can be seen across different brands at the same time – the German phrase 'zeitgeist' sums this up in terms of 'the spirit of a moment in time'. At a conscious and a subconscious level, each of us may be influenced by other people's ideas - especially now that online advertising, social networking, billboard posters, shop radio, TV and cinema ad space mean we are exposed to thousands of media messages each day.

But where do you draw the line between inspiration and just plain copying? The possibility of a creative work, concept or design 'owned' by one person being 'stolen' by another, is what led to the term 'intellectual property'. Concepts and visuals can have real value for businesses and individuals, just as much as stock or assets, so making them into a kind of property where they have a legal owner seems to make sense.

Smart Goods, Intellectual Property

As you will already have seen, innovation and creativity have long been important to the economy of the UK. Businesses in the creative industries look for new designs, new products and new ways of presenting services to consumers in the hope of getting ahead in the market. Investing in the research and development of new products and services also helps move the economy forward – but it is expensive. If a business develops a brand new product or service, the last thing they want is for their rivals to suddenly start selling that 'exclusive' new design as well.

So how do businesses avoid getting into lengthy legal wrangles about their designs and products? In the UK, an organisation called the Intellectual Property Office (formerly the Patents Office) exists to deal with these issues.

Research Task

The website for the Intellectual Property Office contains plenty of information about copyright, design, patent and trademark, as well as more general information about IP. You can find the site at <http://www.ipo.gov.uk>.

1. Use the website to take brief notes on the different kinds of 'intellectual property' protection available.
2. Find a selection of dictionary definitions of 'intellectual property'.
3. Where, and when, does the term 'intellectual property' come from? Are your different sources in agreement?

The Great Idea Robberies

Cases of disputed ownership, double dealing and downright copying can be found littered throughout history. Come up with an idea and share it – you risk it being stolen and used elsewhere. It may have already happened to you, in one form or another. Disputes about ownership of ideas and products can be long, expensive and damaging to reputations and relationships between companies. A lack of a valid patent or trademark can also prevent new businesses from getting their goods or services to the market.

You may know of some famous case of stolen ideas or breaches of copyright. The following example concerns a dispute that went on for almost fifty years, and was only settled after the inventor's death:

The Austrian inventor Nikola Tesla, born 1856, came up with hundreds of inventions and patented many of his ideas. He is now recognised as holding the first patent for radio technology; however, his ownership of this patent was disputed for many years, notably by Guglielmo Marconi, who also pioneered developments in radio technology. Tesla's priority was recognised by the US patents office in 1903 when Marconi applied for protection of the same design as Tesla. Later on, however, Marconi was credited with the invention. Tesla apparently joked, 'Marconi is a good fellow. Let him continue. He is using seventeen of my patents'. Yet the dispute was only resolved after Tesla's death, in 1943: Marconi's claim was legally overturned, but Tesla never saw his ownership of the patent for radio fully reinstated.

Discuss

1. Do you know of any other cases of ideas or designs being stolen?
2. What do you think would happen if the same situation were to occur today?
3. How could someone go about protecting his/her creative output – for instance, a novel or a clothing design?

Practical Task

Create a short (no more than 5 minutes), informative film explaining what intellectual property is and the reasons why protecting it might be useful. You should pitch your film at people thinking of setting up new businesses in your local area. Make sure to script and storyboard carefully first, using all the information you have collected in this unit, and ensuring everyone in your group takes an active role.

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Section 4: Digital Consumers

How is consumer choice changing in the digital age? Are traditional areas of the creative industries under threat from these changes? What rights should digital users expect?

The Digital Consumer

The way we ‘consume’ entertainment, and creative outputs, has changed greatly from the last generation or two. Over the past fifty years the British consumer has had an increasingly wide choice of how to spend their money and their leisure time. Restaurants, bars, pubs and clubs along with multiplex cinemas and leisure complexes have risen rapidly in numbers in urban centres presenting consumers with many options. In addition, widely available and reasonably priced broadband opens up a wide range of possibilities, with DVDs and home gaming systems giving people even more choice. But what factors motivate consumers? And what impact has the digital revolution really had on the way we consume creative outputs?

The Theatre

The West End of London is the heart of the city’s ‘Theatreland’, with over 40 theatres in a small area offering a wide range of shows and entertainment including musical theatre, new and established plays and comedy performances. Many of the theatres have been providing entertainment for Londoners and tourists alike since Victorian times. Recently, there seems to have been a shift in demand for the kinds of entertainment on offer: whilst musical theatre has a long history in the West End, in 2008 musicals far outnumbered classic plays with only a handful of non-musical productions being staged. The relationship between musical theatre and film has also been getting stronger, with films becoming stage musicals and stage musicals becoming films: *Billy Elliot*; *Grease*; *Chicago*; *Hairspray*; *Mamma Mia!*; *Mary Poppins*; *The Sound of Music*; *The Producers* – to name but a few.

1. In your view, what sorts of people would want to visit the West End of London to see a show? Consider their age, background and income bracket; you could also think about whether they might go regularly, or just for a special occasion.
2. Would you say musicals attract a different audience to plays?
3. What sort of audiences do you think are attracted to musical films at the cinema? Pick a particular example to help you explain your answer. Do you think cinema versions of musical stage shows offer different ‘viewing pleasures’ to seeing them in the theatre?

The Cinema

The all-time high for cinema attendance in the UK was in 1946, when the total number of cinema admissions was an enormous 1,635 million, with admissions remaining in the thousand millions long into the 1950s. The 2006 figure of 156.6 million cinema visits is the same as the number of people attending in 1972 (source: Film Distributors' Association statistics). Below are some figures on recent cinema attendance for the UK:

Year	Attendance	Year	Attendance
1995	114.56m	2001	155.9m
1996	123.8m	2002	175.9m
1997	139.3m	2003	167.2m
1998	135.5m	2004	171.2m
1999	139.75m	2005	164.6m
2000	142.5m	2006	156.6m

(Source: <http://www.launchingfilms.com/databank>)

1. Plot these figures on a graph.
2. When was attendance highest and when was it lowest? Has there been a steady growth, a steady decline or a more erratic pattern in UK cinema attendance in the period illustrated here?
3. Could you think of any reasons for the changes in figures over the years, from the 1946 high, to the current figure? You could consider social, cultural and economic factors in your answer.
4. What do you think encourages people to go to the cinema? What sorts of films do you think attract the biggest cinema audiences? You could use current films at the cinema as examples.
5. Where do you think the money paid for a cinema admission goes? Try to cover as many ideas as you can, from the production and distribution of the film (and ones before and after it) to the costs of the cinema itself.

Entertainment Online

Figures published in August 2008 by Ofcom revealed that 58% of UK households had a broadband connection through their landline, showing an increase on the previous year's figures (Ofcom's Communication Report for 2008, ©Ofcom copyright 2008). Internet users can spend hours a day browsing sites for information or just for leisure, taking advantage of the speed and ease of online transactions. Shopping online through Amazon or interacting in Second Life; listening to music through downloads; watching DVDs online through LoveFilm – the choices available to internet subscribers are huge. But is it just ease of use and access from home that encourages us to have a virtual experience as opposed to making a physical transaction or interaction, or are there other factors to consider? And is the attraction of the online experience universal?

Task

1. Are there any creative products or services that couldn't be made 'virtual', or that you think would lose their appeal if they were to be offered in this way?
2. What do you think is the main audience for social networking sites and for online shopping sites such as Amazon?
3. Explain whether you think the following events could be provided virtually (online, on DVD etc.), or whether there are reasons why they work best 'live':
 - festival • musical • outdoor film screening
 - fashion show • play • art exhibition

Digital Entitlement

Many users now expect to be able to get unrestricted access to online content. In 2008, internet access was identified as a 'basic welfare right' in Sweden; shortly afterwards, the European Parliament also decided that access to the internet was a basic right. Online access has become a political, as well as a personal, issue. But could it be argued that reliance on the internet for so many aspects of life is unwise?

Discussion Points

1. Do you think use of social networking sites and online forums means missing out on real experiences?
2. Could we be compromising our security or our personal safety by sharing too much online?
3. What about putting trust in online traders that mislead consumers or rip them off? Who should be responsible for monitoring this?

Risky Business

As more and more of us are purchasing goods and services online, security is becoming an increasing concern. Although online measures to protect consumers are constantly being updated there is still risk in making a transaction – just the same as when you hand over your card in a shop or restaurant.

Ticket touts have always been out to make money on a concert, festival or event: they'll sell you a ticket – but at an inflated price, and in some cases, the ticket is a rip off rather than the real thing. In the summer of 2008 scores of live music fans lost out to fraudulent festival websites. When the tickets they'd paid for failed to arrive, people realised they'd been scammed. The trouble was, the fake sites looked legitimate – consumers couldn't tell what was genuine and what was not.

Task: Online Rights

1. In addition to the example above, consider any other possible problems internet users might encounter – in terms of the security of their information and personal privacy, as well as the accuracy or reliability of online content and products.
2. Construct a list of the key 'rights' you think internet users should be entitled to online.

Policing the Net?

As you move into the next section, keep the following ideas in mind:

The worldwide web is expanding daily with more and more users adding and accessing increasingly large volumes of data. Online traffic keeps increasing and so do the speeds at which internet connections operate. But can existing systems cope with continued expansion, or will there come a point when capacity is reached? Many consumers rely on internet access for a range of transactions, putting their trust, passwords and bank details into a range of sites. Yet the internet is a global system and different nations have different laws: if you were ripped off online by a company overseas, you might find it difficult to get your money back. So who should protect internet users when things go wrong, and what should the consumer do to help prevent potential problems?

Creative Rights, Digital Responsibilities

Section 5: Industry Responses

How have different sectors of the creative industries responded to changes in technology and consumer habits? What problems, and what opportunities, have these changes brought about?

Consumers want to protect their rights; businesses want to protect their interests and their profits. So what changes are being made by these groups, and by external bodies, to match issues in the digital age? And are these changes addressing consumer, or industry, concerns?

Keeping up with the Changes

As the choice for consumers widens, and the expectation of choice becomes more embedded in modern culture, the entertainment industry is seeking to make its content available in a wider array of formats. For example, television companies such as the BBC and Channel 4 have developed services like the iPlayer and 4OD to meet these expectations, and to an extent, to keep their content legitimate. TV programmes have not been immune to online piracy, and the provision of a legal alternative is one method of stemming this tide. Recent financial cuts also caused changes to some programming, with fears that funding for new and original shows would cease to be available and that, rather than ground-breaking programming, viewers would be faced with endless repeats. But who really cares about original programming – on our televisions, in theatres, or in the cinema?

Discuss

1. Should funding and protection for the creative arts be provided?
2. Who should be responsible for making sure new creative talent gets the chance to succeed – in fashion, music, art, film and so on?
3. Explore whether you think the industries themselves should be responsible, or whether consumer or government bodies should look after these concerns.

A range of organisations have been set up across the creative industries in order to respond to growing instances of digital rights infringement. Increasingly, these groups are working with other organisations (e.g. government, the police, internet providers) in order to convey their messages.

The Federation Against Copyright Theft was set up in 1983 as a means of protecting the interests of broadcasters and the film industry in the UK. The statement below is taken from their website:

DVD and online piracy must be recognised as a crime of growing national significance. Our aim is to help create an effective deterrent to film piracy in the UK by increasing public awareness of this type of criminal activity that can have a destructive influence on local communities.

Kieron Sharp, Director General – Federation Against Copyright Theft

Research Task

1. Have you heard of FACT? If so, where do you think you've seen their name or logo?
2. Visit the FACT website, <http://www.fact-uk.org.uk/>. On the homepage you will see 'Latest News' articles: read through several of these, and take notes on:
 - a) the kinds of activity the organisation reports;
 - b) the way the activity is reported: consider how the news is presented on this site, thinking about the organisation's aims and the other bodies they work with.

Case Study: Computer Games Piracy

With the range of consoles available and the increasingly high quality of graphics and game play, computer games are big business – and they're certainly not just for kids. But just like films and music, games have been targeted by pirates making 'knock off' copies, leading to lost profits for the games industries. But are the high prices charged for games part of the reason the pirates target them in the first place? Read the following two articles and answer the questions below.

This article is from BBC news:

Game sharers face legal crackdown

A British woman who put a game on a file-sharing network has been ordered to pay damages to the game's creator.

Topware Interactive has won more than £16,000 following legal action against the woman who shared a copy of Dream Pinball 3D.

Three other suspected sharers of the game are awaiting damages hearings.

The test case against the unnamed woman from London could see thousands of other Britons suspected of sharing the game in court.

<http://news.bbc.co.uk/1/hi/technology/7568642.stm> BBC © MMVIII

The next extract comes from an article in the Guardian newspaper and describes how one games developer decided to find out exactly why people were pirating his games – by surveying them.

Developers face up to the pirates

Looking over the responses, Harris decided that some of their criticism was fair - and agreed to change his approach. 'I get the impression that if I make [the games] hugely, overwhelmingly, massively better, well-polished, designed and balanced, that a lot of would-be pirates will actually buy it,' he wrote on his blog. 'I've gone from being demoralised by pirates to [being] inspired by them.'

The fact remains, however, that copying is a serious issue for the £15bn games industry – and one that has been a concern for decades. In the 1980s, youngsters would duplicate the latest game simply by copying the audio tapes they came on. However, as games have grown more complex – especially with the internet allowing people to pass on files around the world in seconds – the high cost of making a new release has made producers keen to find an answer to illicit copying and outright piracy (where people sell games they have copied). After all, there is a huge amount on the line for the people behind best-selling games. Highly realistic, cinematic titles such as Grand Theft Auto, Bioshock and Crysis take years of development, millions of pounds and hundreds of staff.

With such high stakes, few developers might be following the same extreme path taken by Harris – but others are experimenting with new ways such as in-game advertising, sponsorships, marketing deals and other ways to lower prices and so entice people into buying legitimate titles rather than just copying them.

<http://www.guardian.co.uk/technology/2008/sep/11/games.piracy>

Copyright Guardian News & Media Ltd. 2008

DISCUSS

1. What is the average price of a brand new, high-spec computer game? You could look at an online shop such as Amazon if you don't know.
2. Do you think the fine of £16,000 in damages was appropriate?
3. What do you think is the most expensive thing about creating computer games?
4. Should the games industry be looking for ways of making games cheaper in order to reduce piracy, or should they be looking to make games more exciting and more visually stunning in order to protect their profits?

Case Study: The Music Industry

Digital music formats have changed the way we consume music, and arguably made it easier for new bands to break onto the scene. Music files can be downloaded easily online: convenient for the consumer and fine for record companies and artists provided they are getting something back – profits, usually – although sometimes artists are happy with press coverage and an increased fan base.

Task

1. What 'official' sources of music downloads do you know of?
2. Look at the average costs of downloading a music track. Where do you think the money you pay for a track goes?
3. Find some examples of artists who've made their material available online for free. Explain what you think they have got out of this arrangement.

Whilst there are plenty of legitimate ways to buy music online, there are also places where music is available illegally: filesharing networks being one of the key sources of illegal music files. But what exactly is illegal about an illegal download? The problem is one of copyright. Artists who create music are the legal owners of that music (or their record companies are) and they are entitled to receive proceeds when their music changes hands – the same as when their CDs are sold in a shop. Illegal downloads are usually free, or if there is a cost involved, the proceeds do not go to the people who own the copyright on the music. Obviously this is a problem for the music industry, as it means lost profits for them.

Although steps have been taken to reduce the availability of illegal downloads, and to give consumers more legal options, there are those who believe music should be free, and that record companies have been too slow to adapt to technological changes. But aside from exploiting someone else's copyright, illegal downloads can also create problems for consumers in terms of unexpected content: users may end up with spyware or viruses rather than the music files they wanted. So do consumers have a duty to be responsible in their downloads? Should it come down to individual choice, or should an external body be involved?

Proposals in the summer of 2008 saw some of the major UK internet service providers (ISPs) agree to a process of sending warning letters to customers who were using illegal filesharing sites. The same ISPs also said they would work harder to develop legal filesharing sites to ensure users have legal alternatives available. These measures were portrayed as a way of educating internet users about digital rights infringement. There have also been proposals to introduce a policy whereby after three warning letters, users persistently infringing copyright will have their internet connection withdrawn.

Balancing Rights: Digital Users and Creative Producers

There has been much media interest in this mode of responding to online piracy. A summary of some responses from individuals and consumer groups concerned about these measures is given below.

Task

- 1.** Read through the following arguments against monitoring illegal downloads, and consider whether you think a valid point is being made in each case.
- 2.** What responses do you think the ISPs might give to each of these arguments? What reassurances do you think internet users might want to hear?
 - a.** 'Users should have free choice about which sites they use. If they want to use legal or illegal sites, that is their choice – not the choice of the state or the ISP'
 - b.** 'Monitoring people's download activity is taking the 'surveillance society' too far: people's daily activities shouldn't be subject to constant observation and scrutiny'
 - c.** 'These proposals treat internet users as criminals – is this really how ISPs see their customers?'
 - d.** 'This system basically means an invasion of personal privacy, if someone is monitoring users' internet activity'

Creative Rights, Digital Responsibilities

Section 6: Future Perfect?

How can a balance be achieved between consumer and business concerns and between rights and responsibilities? How can creative producers protect their interests as technology changes and adapts?

Individuals want access whilst retaining privacy; businesses want custom whilst protecting profits; creative rights owners want to earn a living from their work. The consumer versus big business and ownership versus privacy seem to be the established arguments, but are these positions now becoming entrenched, or is this just a false dichotomy established by the media? What ways can you see to resolve these conflicts – what is the way forward for digital rights issues?

Sharing Creative Outputs: Consultation and Review

Copyright came into existence in the first place in order to regulate the reproduction of printed works (see Section 2): initially it was a way of controlling who could print what, but as time went on it became a way for individuals and businesses to earn a living from the creation of original work. Nowadays, copyright is an important concern across an extensive range of creative works: from the visual arts, through film, television and music to computing and the internet. But how has existing legislation relating to copyright kept up with the current technological climate, where the possibilities for production and reproduction keep advancing?

In 2006, the UK government commissioned an independent review of the country's laws in relation to intellectual property and copyright. This was called the Gowers review, after Andrew Gowers, who headed up the process. When the review was finished the review board presented suggestions as to how to move copyright forward. Each suggestion (called a recommendation) was open to public consultation, meaning anyone could read these recommendations and have their say about them – provided they did so within a fixed period of time. For example, one of the recommendations still open to public consultation at the time of going to press includes a suggestion of increasing the maximum fine for copyright infringement from £5,000 to £50,000.

Discuss

1. Who do you think might have an interest in responding to these recommendations? You could think about individuals as well as businesses and industries as a whole.
2. What do you feel about this system of public consultation – is it right that anyone can have their say on issues of intellectual property and copyright? Can you think of any other key issues that are open to public comment in this way?
3. Visit the UKIPO website to find out the latest on the results of the public consultation: www.ipo.gov.uk/

Alternatives to Copyright?

Not everyone agrees on issues of copyright and intellectual property: in this section, you can view some of the suggested alternatives to traditional copyright and think about the reasons behind some of these contrasting ideas. Your thinking here will be especially useful for approaching the tasks at the end of this booklet.

Open Rights Group: 'Protecting Digital Rights?'

This group is a NGO – non-governmental organisation – set up in 2005, which comprised about 1,000 members at the time of going to press. Anyone can subscribe to ORG (for a fee), and the group post their objectives and current campaigns on their website, <http://www.openrightsgroup.org/>. Read the following information taken from their site and answer the questions below:

About ORG

Politicians and the media don't always understand new technologies, but comment and legislate anyway. The result can be ill-informed journalism and dangerous laws.

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'.

1. Comment on the language used in this short extract of text. What effects do you think the choices of language are designed to have on readers?
2. How does this compare to the viewpoints of groups set up by, or in association with, the creative industries (e.g. you could compare this to the text from the FACT website, in Section 5)?
3. Who do you think might be the target audience for this group? Visiting their website and considering their campaigns and activities will help you to answer this question.

Open Source

Another movement concerned with opening up possibilities is the Open Source Initiative. Source code is the nuts and bolts of software – it is the string of instructions for a piece of software (or computer game or application for a social networking site such as Facebook). Open Source licensing enables computer users to download other people's software for free, and to make any adjustments to it they want, without having to pay, or ask permission of the code's original author.

This is in contrast to commercial software source codes, which are not available for free, or to adapt and adjust. Users must pay for licenses to use commercial software, usually including upgrades to improve functionality or iron out any problems remaining when the software was published. The license to use the software usually excludes the source code and therefore prevents the user making any changes.

Read this information from the website for the **Open Source Initiative**:

Open Source is a development method for software that harnesses the power of distributed peer review and transparency of process. The promise of open source is better quality, higher reliability, more flexibility, lower cost, and an end to predatory vendor lock-in.

The Open Source Initiative (OSI) is a non-profit corporation formed to educate about and advocate for the benefits of open source and to build bridges among different constituencies in the open-source community.

(<http://www.opensource.org/>)

DISCUSS

1. Is this a purposeful way forward for the software industry, or do you think commercial software is better than that designed by individuals?
2. Should commercial software manufacturers have to change the way they license their materials or maybe change their pricing structures instead?

It is possible for open source software creators to protect their rights over the work they create, and many choose to do this through a process known as Creative Commons licensing.

Creative Commons

This is a means of establishing authorship of creative work, and setting some conditions as to how that work can be used by other people. It allows those producing creative works to share them whilst protecting their ideas from being exploited.

Creative Commons licenses can be accessed online and are free of charge to users.

Read the following information taken from the official Creative Commons UK website:

Why use Creative Commons? creative commons

Some good reasons to use Creative Commons licenses and content

Share, reuse, and remix — legally.

Creative Commons Licences

Creative Commons provides free tools for authors, artists, and educators to mark their creative work with the freedoms they want it to carry. Our tools change 'All Rights Reserved' into 'Some Rights Reserved' — as the creator chooses. We are a no-profit organisation. Everything we do — including the software we create — is free.

Users can choose from a range of licenses to apply to their work, controlling the extent to which other people can use or adapt it, and stipulating whether or not they are credited for their work.

<http://www.creativecommons.org.uk/licenses/>

One fashion design company, Pamoyo, have made use of Creative Commons licensing in their clothing designs. This kind of licensing enables users to download the company's clothing designs to recreate or adapt them provided they make them available to other users under the same terms and conditions. Some of Pamoyo's patterns for their clothing designs are available to download from the company's website: users are encouraged to use the basic pattern to create the clothes for themselves, and to add ideas and alterations of their own, sharing these once they are finished. This is an interesting approach in the clothing industry where designs and patterns are often closely guarded. You can find out more, and see examples of the designs available, on the website:

<http://www.pamoyo.com/en/atelier/atelier.html>



Task

1. Why do you think this fashion company decided to make their designs available through Creative Commons licensing? Explore their website to get a clearer idea of the way this creative business operates, looking at their commercial, social and cultural values.
2. Creative Commons was officially founded in 2001. What digital advances can you think of that have happened since that time? Do you think that, in ten years time, this could still work as a solution - is it future proof?
3. Do you think that technology and legislation are going to provide the answer to questions of creative rights and digital responsibilities, or do you believe that a balance has to be struck by modification of attitudes, or by education?

Summarising Learning

In consultation with your teacher or tutor, choose a task below that is most appropriate to your area of study and your interests.

Task 1

Make a short documentary film about your views on creativity and on digital technologies. You should think of the film as an opportunity to express your perception of creativity and its influence on you, as well as exploring the ways in which you interact with digital technology. Explore cultural, social and other factors in relation to these two areas of influence on your life. Your finished film should be entirely your own original work (including music if possible; if not, make sure you source copyright free music) and should be a maximum of 5 minutes in length.

Task 2

Prepare a multimedia presentation (incorporating sound and visuals) to demonstrate your learning about and understanding of EITHER the rights of creative producers OR the responsibilities of digital producers. Aim to use as much of your learning from this unit as possible, and be sure to reference all of your sources carefully.

Task 3

Write an essay response to the question 'What is the future of the creative industries in the digital age?' Make careful consideration of how you will structure your writing to incorporate your learning from this unit, ensuring that your argument is clear and that any supporting materials are carefully sourced and referenced.

References

This list is designed as a guide to the sources mentioned in this booklet; in most cases, material is taken from online sources. The list can also act as a useful reference point for further reading in related subjects. Film Education would like to thank all contributors to the resource for giving us permission to use and reference their content.

Creative Industries Economic Estimates Statistical Bulletin, October 2007

www.culture.gov.uk/images/research/CreativeIndustriesEconomicEstimates2007.pdf

Launching Films: the Film Distributors' Association website

<http://www.launchingfilms.com/>

The Statute of Anne, 1709: Copyright Act 1709 8 Anne c.19

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The Guardian online

Article *Developers face up to the pirates* can be found here:

<http://www.guardian.co.uk/technology/2008/sep/11/games.piracy>

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The BBC online

Article *Game sharers face legal crackdown* can be found here:

<http://news.bbc.co.uk/1/hi/technology/7568642.stm>

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<http://www.fact-uk.org.uk/>

Ofcom's Communication Report, ©Ofcom copyright 2008

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The Open Rights Group

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

References Continued

Open Source

<http://www.opensource.org/>

Creative Commons UK

<http://www.creativecommons.org.uk/>

Pamoyo: fashion designs under creative commons licenses

<http://pamoyo.com/>

Download designs here:

<http://www.pamoyo.com/en/atelier/atelier.html>

The Copyright Licensing Agency have further information about copyright:

www.licensing-copyright.org

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Notes



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