

Identifying and analyzing current available legal models for voluntary sharing of content in Europe

Melanie Dulong de Rosnay

Communia Conference

Louvain-la-Neuve, Belgium

30 June 2008

*Identifying and analyzing
current available* legal models
for voluntary sharing of
content in Europe

- Creative Commons licenses
 - Free Art License
 - Free software licenses
 - CC+ / CC0

Identifying and analyzing current available legal models for voluntary sharing of content *in Europe*

- CC licenses drafted in a Common law, copyright system
- CC licenses ported in civil law, author's right continental Europe jurisdictions
- CC US?

Outline

1. Differences
2. European influence
3. A cultural norm

Terminology: copyright

- Author's right
- Neighbouring rights
- Sui generis rights of database producers...
- Other rights: privacy, publicity...

- Collective work
 - > legal qualification

Differences between legal systems

- Moral rights
 - Critic of the systems
by: anonym
nd, honour & reputation
- Contractual liability
 - 1.0 limited liability
 - 2.0 disclaimer

Design for a system

- Fair use / NC
 - Exceptions & Limitations vs NC
 - Impact NC/ND beyond P2P
- Status of certain performances and display in public places
 - Simultaneous broadcasting of public programs in a restaurant is fair use
 - Collectively managed

Collecting societies

- Non exclusive assignment to ASCAP & BMI
 - Competition law context
- Compulsory collective management
 - Private copy
 - Phonograms public communication
- Paradox
 - Usages which can't be free
 - Grants which can't be accessed
 - Royalties which can't be collected

European influence

- Moral rights
 - BY: 96%
 - ND, reputation, non endorsement
 - Right of destination
 - Contributing to the Commons
 - NC = postpone transaction costs
 - Author first
 - Non exclusivity

Cost for *institutions*

- Liability
- Evidence
 - European solution
- Database: data *vs* works

A performative norm

- Enforcement
 - Pragmatism
 - Photographer vs attribution
- Interpretation
 - “Punting” to culture (C. Kelty, G. O. Brown)
 - Case law: awareness?

Thank you :)