Inclusive Appropriation and the Double Freedom of Knowledge:
On the Capitalist exploitation of non-for profit software, contents and data producers.

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Abstract

During the last decades, the widespread opposition to the dramatic expansion of intellectual property helped to set a quasi-public sphere of non-commercial digital knowledge. Nevertheless, the flows of "free knowledge" also enabled the development of a (partially) unexplored region of the private and for-profit sphere. A new kind of business methods is being shaped. Somehow, it is based on the disguised exploitation of unpaid digital work, carried out mostly in the leisure time, with non-commercial purposes. This `exploitation side´ has only received attention recently. However, the literature still lacks of: i) a name and a definition of the phenomenon, ii) a sound theoretical foundation and iii) an empirical description of its varieties. Thus, this paper tries to shed some light in these three regards by: i) advancing and defining the concept of *Inclusive Appropriation (IA);*ii) anchoring the IA in the *Double Freedom of Knowledge* (inspired to Marx´s double freedom of labor power) and iii) analyzing three modes of IA, respectively associated with software, contents and data.

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1. Introduction

During the last decades, Capitalism has been undergoing a metamorphosis, resulting in a change of stage, from Industrial Capitalism to Cognitive (Rullani, 2000; Vercellone, 2012) or Informational (Castells, 2006) Capitalism. Within this context, the widespread opposition to the dramatic expansion of intellectual property -and particularly to the copyright transmogrification- helped to boost the diffusion and legitimacy of concepts such as "free knowledge", "intellectual commons", "open access", "p2p production". Along with the emergence and growth of the General Public License (GPL), Creative Commons (CC), and other licenses, this phenomenon has had a well-known consequence: the growth of a quasi-public sphere of non-commercial informational goods[2] (Benkler, 2005; Ostrom and Hess, 2006; Bauwens, 2006). Nevertheless, the flows of "free knowledge" also enabled the development of a (partially) unexplored region of the private and for-profit sphere. A new kind of business method is being shaped, and the management literature has already offered a warm welcome to this novelty (Tapscott& Williams, 2005; Leadbeater, 2007; Anderson, 2009). Somehow, it is based on the disguised exploitation of unpaid digital work, carried out mostly during leisure time, with non-commercial purposes. This `exploitation side´ has only received specific attention recently (Pasquinelli, 2008; Petersen, 2008; Van Dijck and Nieborg, 2009; 2006; Langlois et. al., 2009; Lovink & Rossiter, 2010; Fuchs, 2013, Scholz, 2013).

However, the literature still lacks of a name and a definition of the phenomenon, a sound theoretical foundation and an empirical description of its varieties. Thus, this contribution tries to shed some light in these three regards by:

i) advancing and defining the concept of *Inclusive Appropriation (IA)*,
ii) anchoring the IA in the *Double Freedom of Knowledge* (not restricted/ not paid, related to Marx´s double freedom of labor power) and
iii) analyzing three modes of inclusive appropriation, those associated with software, contents and data, respectively.

In the next section we advance the idea of double freedom of knowledge, while in the third empirical examples are presented. Finally, the fourth section concludes by introducing the concept of inclusive appropriation.

2. Double freedom of knowledge

What does the aforementioned "double freedom of knowledge" mean? At a first glance, the idea is quite simple: whereas the usual voices (from management literature to hackers) emphasize *one* freedom (the shiny side of copying and sharing informational goods), we think we are unwittingly discussing about *two* very different but inseparable freedoms.

[2] We use the concept of informational goods following Zukerfeld, 2006. It refers to goods that are fully or mostly made of digital information and, therefore, can be copied with close to zero marginal costs. Software, movies, recorded music, texts and data are some examples.

Here is where Marx comes back. One of the key factors for the birth of Capitalism has been what Marx called the *double* freedom of labor power. On the one hand, the worker is freed from the feudal order, free to move and free to sell his labor-power where, when and how he wants to. By the time of Marx, this had been the only freedom mentioned by Political Economy, Contractualism and Liberalism. But, on the other hand the worker is also freed from the means of production, as it is well known. What matters for this paper is the Hegelian reasoning: Marx highlights the necessity of two contradictory freedoms. In the first case, freedom refers to empowerment; in the second, to the lack of power.

Now, we want to bring this type of reasoning by advancing the concept of double freedom of knowledge. Knowledge translated to informational goods licensed with GPL, CC, or simply shared voluntarily without licensing is free, on the one hand, because it can be copied, modified, shared, etc. But, on the other hand, *it is also free from any obligation of paying for it.* As in the case of labor power, we see the two sides of the coin. One is widely promoted; the other is, in some cases, silently exploited[3]. In other words, knowledge characterized by the double freedom can follow two (non-exclusive) paths: *if it is not used for profit, it enlarges the quasi-public sphere. If it is used for profit, it ends up as a piece of the inclusive appropriation machine.* Therefore, inclusive appropriation can be defined, in a nutshell, as an *appropriability mechanism by which capitalist firms exploit the double freedom of knowledge regarding informational goods.*

However, before presenting inclusive appropriation we must turn to empirical examples.

3. Types of inclusive appropriation

This section deals with empirical information regarding three types of Inclusive Appropriation[4]. The first is related to Free S*oftware*. We show how companies such IBM and HP have benefited from the unpaid work of thousands of workers who developed Linux. The second type concerns *contents* (music, texts, videos). Here we resort to the cases of YouTube, Flickr and some blogs to illustrate how voluntarily shared videos, pictures and texts are used as a part of a business strategy. The third type deals with *data*. Not surprisingly, we have chosen Google and Facebook as examples of collecting data of user activities freely and earning money from them.

3.1 Free Software and Capitalism: Linux revisited

What is the ideology behind free software? Many advocates have been struggling to remove the anti-capitalism tag, unfairly attached to them by some foes. Free software, they say, is an opportunity for business, not a threat to them. Take the code for free, adapt it and sell it, embedded or not; don´t fight the hackers, hire them. In the last 15 years the message was successfully delivered.

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[3] Certainly, this kind of partial truth is a cornerstone of ideology (Zizek, 2003). Moreover, in both cases (double freedom of labor power and double freedom of knowledge), and by definition, capitalist exploitation implies necessarily some degree of consent of the worker.

[4] The section is based on secondary sources. We have decided to combine quantitative (3.1), and qualitative (3.2 and 3.3) data to present both statistical facts and subjective representations.

> Some large companies have started hiring hackers (which is not new) to develop free software (this is new). Works previously done without direct economic interest now begin to be funded by companies. Projects previously motivated by the hackers´ need or desire and the community of free software users, non-market interests, can now begin to be marked by the needs, rhythms and priorities of the companies which fund these projects. (Vidal, 2000: 63, translation of Matthieu O´Neil)

Take the paradigmatic example of IBM. In the nineties, the company began to develop a strategy to benefit from free software. In 1998 the big blue set a team intended to interact with the developers of Linux communities, and the results were awesome. IBM invested U$S 100 millions in getting done some boring stuff that the volunteers of Linux needed and in adapting Linux to the company´s needs. As a consequence, IBM was able to use pieces of code that added U$S 1000 million in revenues (Tapscott and Williams, 2005:130). To be sure, not all the U$S 900 million were profit, nor all the profit came from the unpaid work of free software communities. But a good deal did. The stocks of doubly free software produced along decades started to nourish the IBM business from then on. Indeed, in the distant year of 2003 IBM´s profits related to Linux (some U$S 2000) doubled those linked to intellectual property licenses and royalties (Benkler, 2006). Interestingly, this was (and still is) happening in the world´s second firm regarding sales of software.

Nevertheless, it´s Hewlett-Packard, not IBM, the leader company in making money on free software.

> Hewlett-Packard Co. (HP) reported Thursday a 40 percent increase in revenue from the sale of servers equipped with the open-source Linux operating system and services to support them. Linux-based revenue at HP increased to more than $2.5 billion in 2003 from $2 billion the previous year, a company spokeswoman said. (Blau, 2004)

HP –sixth company in the world regarding software revenues- already had 5000 in house or outsourced employees devoted to developing free software in 2002.

Beyond firms which sell both hardware and software, the for-profit use of free software exists in firms that sell only free software and related services. Red Hat is the main one of those firms.

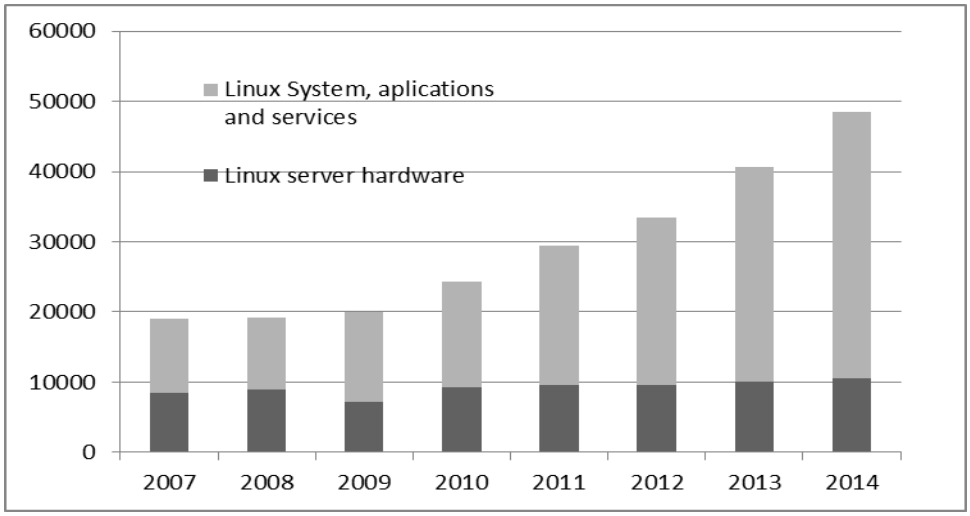
> Red Hat takes open source software and makes it consumable for enterprises, not offering licensed products, but subscriptions and support. (Software Top 100, 2010)

The phrasing is accurate. Red Hat *takes* the doubly free code and makes it consumable for other firms. The company is growing, and has acquired other companies committed to free software (Cygnus, Qumramet, Jboss). It has offices in 65 countries and employs some 2800 people.

Now, beyond a bunch of examples, let´s turn to the aggregated value, with the aid of Figure 1.

Figure 1

Total revenues of systems, applications, services and servers based in Linux (U$S millions, worldwide 2007-2014)



Source: Gilen and Waldman, 2011:Figure 1. The figures for the period 2011-2014 were projected.

The nominal amounts are significant, especially if the fact that only Linux is measured here is taken into account –i.e., other free software is not considered. However, the main trend concerns the increase in sales in systems, applications and services. It shows that profiting from Linux is not only an opportunity for hardware producers, but also for software vendors.

To be sure, the flows of doubly free digital knowledge are only a part of the business. Hardware is also needed in some cases; know how regarding Linux is present in all of them. Moreover, measuring the share of profits due to inclusive appropriation is not easy at all. But it is clear that the unpaid use of code developed by thousands of volunteers plays an important role in the business scheme of the firms trading with free software.

3.2 The debate regarding Using Generated Contents

In the last years, concepts such as User Created Contents (OCDE, 2007) or User Generated Contents (Gervais, 2009) have been coined to conceptualize the contents (videos, music and texts) produced or remixed by users (often called pro-sumers) of the web 2.0 –Facebook, Twitter, MySpace, Flickr, You Tube-. Certainly, these contents are doubly free knowledge: users usually don´t expect to exercise their patrimonial rights. Sometimes, they license those contents under Creative Commons. However, most of the time, they are not aware of the fact that they have author´s rights over their informational goods. The inclusive appropriation mechanism is shaped when these contents are placed in platforms owned by for-profit firms, which use them as a means for attracting flows of attention to their sites. Firms, of course, profit from those flows by selling ads. And they oblige the users of their services to sign "one click" or "clickwrap" agreements, giving up some rights on the contents.

Unfortunately, a good deal of the debate on UGC or UCC refers *only* to the degree to which users are entitled to remix and mash up contents from other authors or companies: are these

"fair uses"? Should those derivative works be allowed under the current copyright/author´s rights regimes? Many world famous scholars like Lawrence Lessig and Johnathan Zittrain are involved in supporting the rights of pro-sumers to use, transform and distribute works of authorship. They use a rhetoric of freedom to uphold the position of users which allegedly infringed copyright law. But they are less committed to discuss the other side of the coin: *what happens when the companies violate the copyright/author´s rights of pro-sumers?* Indeed, the freedom of huge companies to make money on those who endeavored to create valuable contents is rarely disputed (Pasquinelli, 2010; Petersen, 2008; Van Dijk & Nieborg, 2009; Stumpel, 2010).

Let´s take an example: You Tube. The company makes money through advertising. Contrary to its origins, You Tube is highly profitable nowadays: in 2012 the revenues were expected to rose 3.6 billion, and the net revenues, 2,6 billion (Kafka, 2012). In turn advertising is based on the number of views of the videos. Many highly watched videos are produced by amateurs who ignore they are giving up their copyright to some extent. Nevertheless, many creators of videos thought that they deserved a slice of the cake. In the first place You Tube started to send checks silently to owners of top videos. But from 2007 onwards You Tube developed the Partners Program. It allows the producers of popular videos to receive a part of the ad revenues, usually a 55% (Carmody, 2013). This means that the short head gets some money, but also that the long tail of uploaders who ignore how to exercise their rights receives nothing.

Flickr, the "best online photo management and sharing application in the world"[5], is another valuable example. Flickr makes money with ads and the printing of photos uploaded by users. Some years ago, a debate about what we are calling inclusive appropriation arose around an article signed by Anil Dash in the blog *37signals.*

> But interestingness in Flickr doesn't pay. At least not yet. Non-pro users are seeing ads around my photos, but Yahoo's not sharing the wealth with me, even though I've created a draw. Flickr's plenty open, they're doing the right thing by any measure of the web as we saw it a year ago, or two years ago. Today, though, openness around value exchange is as important as openness around data exchange. So does that mean the right answer for cashing in on my interesting work is to ask for a penny from Yahoo? Or does it mean I should just make an automated script that grabs my interesting photos and posts them to my TypePad blog so that I can put ads on them? (Dash, 2005)

The blog recorded some 300 comments to this post. Some users rejected the point raised by Dash. Sites of the web 2.0 offer many benefits for free to the users: software, storage, services. The users choose to use them or not, without any constraint.

> The value I get out of Flickr is an nice way to upload photos and share them with people. If the benefit Yahoo gets is revenue, and it keeps the service going, great. (Darren James Harkness in AA.VV., 2005)

> A good question is whether or not the cost (what you pay) plus the money gained off your work is greater than the efficiency the software gives you in

[5]Excerpted from http://www.flickr.com/about/

> your life. You're not paying for Yahoo's software, so they make money off what you give them. But they are providing a service. Isn't this how you pay for the service? Flickr, you pay, and they have ads, is the combination worth the benefit of using the software. Overall, an individual choice to use the services. (JohnO in AA.VV., 2005)

One flaw of this argument is the fact that *consensus does not dissolve exploitation*. As in any other form of capitalist production, people choose whether to enter or not a particular process. However, the subjective decision does not determine the objective result. And exploitation is nothing but an objective difference -although not always easy to measure. Another shortcoming is that pro-sumers of informational goods are not completely aware of their rights, the market structure and so on. As long as many users don´t know that they have legal rights over their contents and data, it is not clear that they are making informed decisions.

In any case, many readers of the aforementioned blog agreed with the complaint of Dash. Some uploaders of popular pictures deserved some compensation, they said. But a gropuof readers went a step further. They noticed that the blog itself was applying the same model they were arguing about. Readers come to 37signals primarily because of the comments of others users, the blog makes money through AdSense, and the users do not receive any monetary compensation.

> This blog is making money right now off of my response, you are showing ads for 37signals alongside my comments.(Alex Bosworth in AA.VV., 2005)

> As for Flickr generating $$ off of other peoples' content… Some blogs tend to generate really interesting comments, and quite often the comments (flame fests, whatever) can draw lots of "repeat business." Do the commenters deserve some of the $$ generated from the advertising on the site? In other words, if a miracle happens and I become really interesting and folks return here just to see if I've left more comments, do I get some of the money you're getting from Veer? (erat in AA.VV., 2005)

> This begs the question… is the content of the blog posts or the comment discussion that follows what draws people here? If it's the latter to any extent, then where is the profit sharing with commenters for any click throughs on 37signals projects to the right? (Doug in AA.VV., 2005)

> 37signals making a significant amount of profit (it doesn't take much to build a web app, at least not as much as you would think) and I don't see anyone hounding on them. (Don Wilson en AA.VV., 2005)

Certainly, the argument is weaker here as long as the income of the blog and the "interestingness" of each comment are quite modest. However, the point we want to raise is that the model of inclusive appropriation of contents, fair or not, can be discovered behind every corner of the web.

The whole debate touched a raw nerve, and soon Dash and other collaborative producers received a response from the other side of the counter. Catherina Fake, cofounder of Flickr, developed her point in her personal blog.

> Anil wrote a post about The Interesting Economy in which he wonders why those whose photos are algorithmically deigned to be "interesting" do not receive any money. But as some commenters note, in any social software system there are systems of value other than, or in addition to, money, that are very important to people: connecting with other people, creating an online identity, expressing oneself -- and not least, garnering other people's attention.
>
> What is more pleasant than the benevolent notice other people take of us, what is more agreeable than their compassionate empathy? What inspires us more than addressing ears flushed with excitement, what captivates us more than exercising our own power of fascination? What is more thrilling than an entire hall of expectant eyes, what more overwhelming than applause surging up to us? What, lastly, equals the enchantment sparked off by the delighted attention we receive from those who profoundly delight ourselves? - Attention by other people is the most irresistible of drugs. To receive it outshines receiving any other kind of income. This is why glory surpasses power and why wealth is overshadowed by prominence. (Fake, 2005)

Two beatiful paragraphs. The second one, carrying a contagious epic, is a good example of ideology: a superficial truth that hides the real truth. Fake highlights the value of the attention. But are “prominence”, “applause” or “fame” good enough for her firm? Not at all. She wants real money, not fancy words[6].

3.3 Google, Facebook and the data: don´t be evil

Google´s revenues hit U$S 50 billion in 2012, and profits grew to 10,44 billion. But, how does a company make so much money when it seems to provide all of its services for free? “We generate revenue primarily by delivering relevant, cost-effective online advertising" stated a report of the company. As it is well known, Google advertising systems (AdWords and AdSense) are highly targeted. They tailor the ads not only to each particular user, but also for that person in a specific place and time. The means to achieve this kind of sophisticated advertising are the huge databases that Google collects from its users. Data about users´ consumptions preferences, age, vacations, location, friends, address, phone number, health and much more is stored and processed. Remember that Google gathers information not only from the searches in the web, but also from Gmail (scanning every single email), Maps, Calendar, Drive, You Tube, Google+ and, especially, the apps of mobile phones based on Android.

Additionally, Google collects information through the aid of *cookies*.

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[6] It is a curious coincidence that Fake became in 2008 member of the "Board of Directors" of Creative Commons.

> A cookie is a unique ID placed on a user's hard disk. Every time a user does a Google search, Google places a cookie on the user's machine if it does not already have one. If the user already has a Google cookie on his or her machine, Google can read and record the cookie. Google's cookies expire over thirty years from their initial formation. While computer users have the option to erase their cookies, most do not, allowing Google to link a person's cookie with other information it collects about a user as long as that user has the same computer. (Delichatsios, & Sonuyi, 2005:5)

Not surprisingly, this has raised concerns regarding privacy issues from the very beginning (Delichatsios, & Sonuyi, 2005; Privacy International, 2004). But the problem is becoming bigger as Google stockpiles more and more data. In 2010 some dozen data protection and privacy organizations issued a warning letter to Google (Comeau, 2012). Moreover, the suspected ties of the company with the CIA and the NSA surveillance program PRISM have been confirmed recently (Savage, Wyatt and Baker, 2013).

Altoghether, Google`s equation is simple. As Gerald Reischl, author of *The Google Trap*, puts it:

> Google´s trick is quite simple. The company offers free search function, in addition to other programs, and in return collects users´ information without really asking them. Free services in exchange for your privacy. They let you use a variety of tools without paying, while you are revealing data that help a consortium to increase its advertising revenues and profits. (Reischl, 2009:35)

Of course, Google is not the sole company profiting from users data without real consent. Facebook, among other social networks sites, offers an obvious example of a similar procedure. The Beacon system, active between 2007 and 2009, was particularly rude. It sent data from external websites to Facebook, allowing targeted advertisements and automatically sharing users purchasing activities with their Facebook friends. Naturally, many users did not want that some 500 friends find out what they were buying online. After becoming the target of a class action lawsuit, the service was shut down. However, it seems clear that Facebook still profits from users´ data in contentious ways. Notably, the rumor that Facebook sells databases to different companies is widespread. Even though proving this kind of trafficking is hard, there is evidence that the leak of data exists, at least at the end of the pipe.

For instance, internet blogger and entrepreneur Bogomil Shopov claimed he bought more than 1 million "Facebook users" from an app developer. Another blog, Search Engine Watch, followed Shopov´s story and found an ad similar to the one described by him, as presented in figure 2.

Figure 2
Facebook databases advertising

Source: http://searchenginewatch.com/article/2220091/Facebook-Twitter-Apps-Exploited-to-Profit-From-Private-Data

Summing up, a good deal of the data stocks that drive Google, Facebook and other companies businesses is doubly free knowledge. On the one hand, the data is free because users can access for free. You can find the ID, email, phone number, friends names of every single person you want, easily and without paying any fee. On the other hand, the data is freely gathered (not recognizing the right that every person has in her personal information). Here we find a legal contrast between contents and data. While the former are protected by copyright/author´s right, the later is more loosely regulated through laws concerning personal information and databases[7].

4. Conclusion: Introducing the concept of Inclusive Appropriation:

> Indeed, that was an apt and true reply which was given to Alexander the Great by a pirate who had been seized. For when that king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, "What thou meanest by seizing the whole earth; but because I do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet art styled emperor." (St. Augustin, City of God, IV, 4)

The "copyright model" of business has been experiencing two kind of serious challenges in the transition towards Cognitive or Informational Capitalism: i) a strong ideological

[7] In the European Union, the current EU Data Protection Directive 95/46/EC does not consider social networks sites and cloud computing. In spite of the fact that a new law is being discussed (the General Data Protection Regulation), it is expected to be in force in 2016.

opposition to the attempt of treating informational goods as excludable goods –opposition to laws extending scope, duration, etc.; ii) the technical failure of that attempt –people, are still downloading software and contents for free. Thus, small-time piracy carried out by millions of users is philosophically supported and technically unbeatable. In turn, Inclusive Appropriation emerged as an alternative both to the ideological opposition and the practical failure of copyright/author´s rights. Therefore, the comparison between the two models might be useful to define IA. Both mechanisms try to increase profits in a context of high sunk costs and tending to 0 marginal costs. But while the privative model intends to *pull up* the price of *outputs*, inclusive appropriation focuses on pushing down (close to 0) the price of *inputs*. In other words, privative scheme rests on creating *scarcity* of knowledge flows and charging for the *access* to them. In contrast, inclusive appropriation harnesses the *abundance* of knowledge, without charging directly for access, and collects money from targeted advertisement, data selling and related businesses[8]. Whereas copyright-based production processes exploit the workers *within the labor time*, inclusive appropriation is to a great extent based on the exploitation of *workers leisure time*. This, of course, agrees with one of the main thesis of Italian Autonomism (Lazzaratto, 1996, 2006; Lazzaratto and Negri, 2001) and Cognitive Capitalism theory (Boutang, 1999; Vercellone, 2012; Pasquinelli, 2010). The ideological base is also different: where copyright is based on rhetoric of *individuals, property and exclusion*, inclusive appropriation talks about *communities, inclusion and freedom*.

Certainly, the privative model rests on *respecting copyright*, and its practitioners are not all ashamed of saying so. Inclusive appropriation, instead, depends on *circumventing* –or directly violating- copyright law. It resorts on *other* intellectual property rights (trademarks, patents, industrial secrets). Hiding both procedures is a part of the inclusive appropriation business model. At the end of the day, inclusive appropriation means stop fighting small-time piracy conducted by users, to profit from big time piracy based on exploiting users. It looks like informational Alexanders have learned the lesson.

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[8]Naturally, the difference between inclusive appropriation and the traditional business of broadcasting companies lies in the origin of the knowledge flows used to conquer an audience: in the second case, it comes from professional, better or worse paid workers; in the first, it stems from the double freedom of knowledge involved

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