

## **Open Business Models for the Creative Industries - how the use of open licenses in business can increase economic results and cultural impact\***

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### Abstract

This paper aims to discuss how emerging business models based on open licensed content can benefit startups in creative areas and promote the development of a more robust and sustainable creative and cultural sector.

As part of a wider research concerning the impact of copyright (more accurately, authors' rights) on recent creative contexts in Portugal, we will list and discuss international paradigmatic cases of companies that have adopted new business models based on open licensing and/ or that use open licenses to improve their performance.

By analyzing the benefits highlighted by the Creative Commons Toolkit for Business, as well as focusing mostly on the startup context, we identify advantages and risks that the use of open licenses may offer to creative businesses today - while highlighting how open licensing can actually represent a strategic tool in the discussion about a global copyright system reform - and consequently, to the creation of sustainable cultural and economic wealth.

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\* This text is a preliminary version of the final paper to be published soon.

## 1. Introduction

The current international discussion about copyright reform brought to light a series of questions that had not been analyzed before as it also made evident the implicit conflict between new more open and sustainable versus old proprietary capitalist economic paradigms (Towse, 2010). Under this context, it is important to reconsider recent business models that were only made possible through the adoption of well-known open licenses such as Creative Commons (Lessig, 2008; Stacey and Pearson, 2017).

In a period when big economic groups pressure and lobby governments to reinforce and extend copyright protection, open licenses like Creative Commons became a powerful alternative to give way for the adoption and development of sustainable business models, that became structure for many cutting-edge startups (such as The Noun Project<sup>1</sup> or OpenDesk<sup>2</sup>) and thriving companies (such as Arduino<sup>3</sup> or Blender<sup>4</sup>).

However, these models remain under threat and their efficiency and contribution to economic growth needs to be underlined and clarified, in order to balance the dialogue and promote an honest transparent discussion regarding copyright (and eventually other intellectual property rights) reform among all interested parties.

Using the Creative Commons Toolkit for Business and some of the examples identified in the book *Made with Creative Commons*, by Paul Stacey and Sarah Pearson (2017), among other cases, this paper aims to illustrate the main benefits of open licensing for companies as well as to suggest some problems that contribute to bias the international discussion about copyright reform.

## 2. Open Business Models

According to Alex Osterwalder and Yves Pigneur, “a business model describes the rationale of how an organization creates, delivers, and captures value.” (Osterwalder and Pigneur, 2010, p.14). This is probably the most well-known and widely disseminated definition of a business model currently used by startup communities around the globe. But there are other ways to define a business model. Al-Debei and Avison (2010, *apud* Saxena *et al*, 2017, p.15) describe a business model as “an abstract representation of an organization, be it conceptual, textual, and/ or graphical, of all core interrelated architectural, co-operational, and financial arrangements designed and developed by an organization presently and in the future, as well as core products and/or services the organization offers, or will offer, based on these arrangements that

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<sup>1</sup> <https://thenounproject.com>

<sup>2</sup> <https://www.opendesk.cc>

<sup>3</sup> <https://www.arduino.cc>

<sup>4</sup> <https://www.blender.org>

are needed to achieve its goals and objectives.” (Saxena *et al*, 2017). Other authors such as Chesbrough and Rosenbloom (2002, *apud* Saxena *et al*, 2017, p.15) define the business model as “the method of doing business, by which a company can sustain itself; that is generating value. The business model spells out how an organization makes money by specifying where it is positioned within the value chain. They define the requirements that the business model should fulfil at all level of analysis.”.

Alternatively, each business model represents a different way of adding value to a certain good or service and how that value can be developed and delivered. So for each existing good or service there are multiple possibilities to produce value and generate revenue.

Alex Osterwalder and Yves Pigneur created a simple tool to help design the basic architecture of the chosen business model a company wishes to develop around its product or service. They call it Business Model Canvas (BMC) and it is a graphic representation of nine fundamental components that usually businesses need to consider (Fig. 1). On one side of this graphic tool we will find Clients, Channels of Distribution, Customer Relationship and Revenue Streams. On the other, we see Partners, Activities, Resources and Cost Structure. In the very middle of the canvas sits the Value Proposition, which is basically the reason why the company is doing their work and how they intend to do it (differently from their competitors).

Open business models are yet another way to do business. The difference to a basic business model is that it predicts the use of open licensing as a strategic tool both to enter the market and/ or to grow the company’s market share.

When we consider businesses whose products or services are highly dependent on copyright (often creative industries), the use of Creative Commons licenses as a strategic tool can be very effective in promoting business sustainability and development. This is not just relevant for young startups but also for any company that wishes to launch a new product/ service or reinforce its market share.

In order to promote the use of Creative Commons licenses in business and adoption of open economic behaviors in companies, Creative Commons developed a toolkit where entrepreneurs can easily understand the benefits of using the licenses as a strategic element of their business architecture. The toolkit comprises information about the main possible benefits/ effects of the use of Creative Commons licenses or Creative Commons licensed work as well as an Open Business Model Canvas (Fig. 2), which is one of the many “spin-offs” of Alex Osterwalder and Pigneur’s BMC (that, for being licensed under Creative Commons, constitutes in itself a good example of a thriving open business model – we shall go back to this later).<sup>5</sup>

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<sup>5</sup> The CC Toolkit for Business also suggests a second possible CC Open Business Model Canvas but, for the purpose of this text, we will not discuss it.

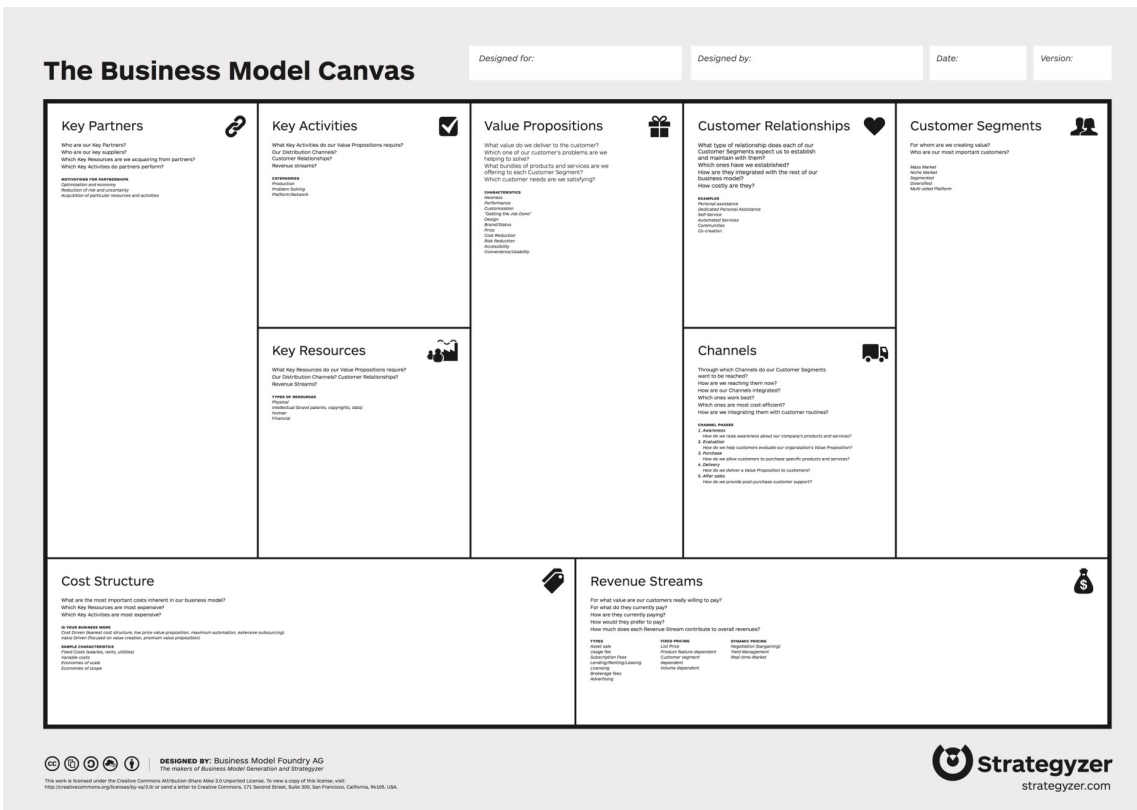


Fig. 1: Business Model Canvas graphic representation (Alexander and Pigneur, 2010)

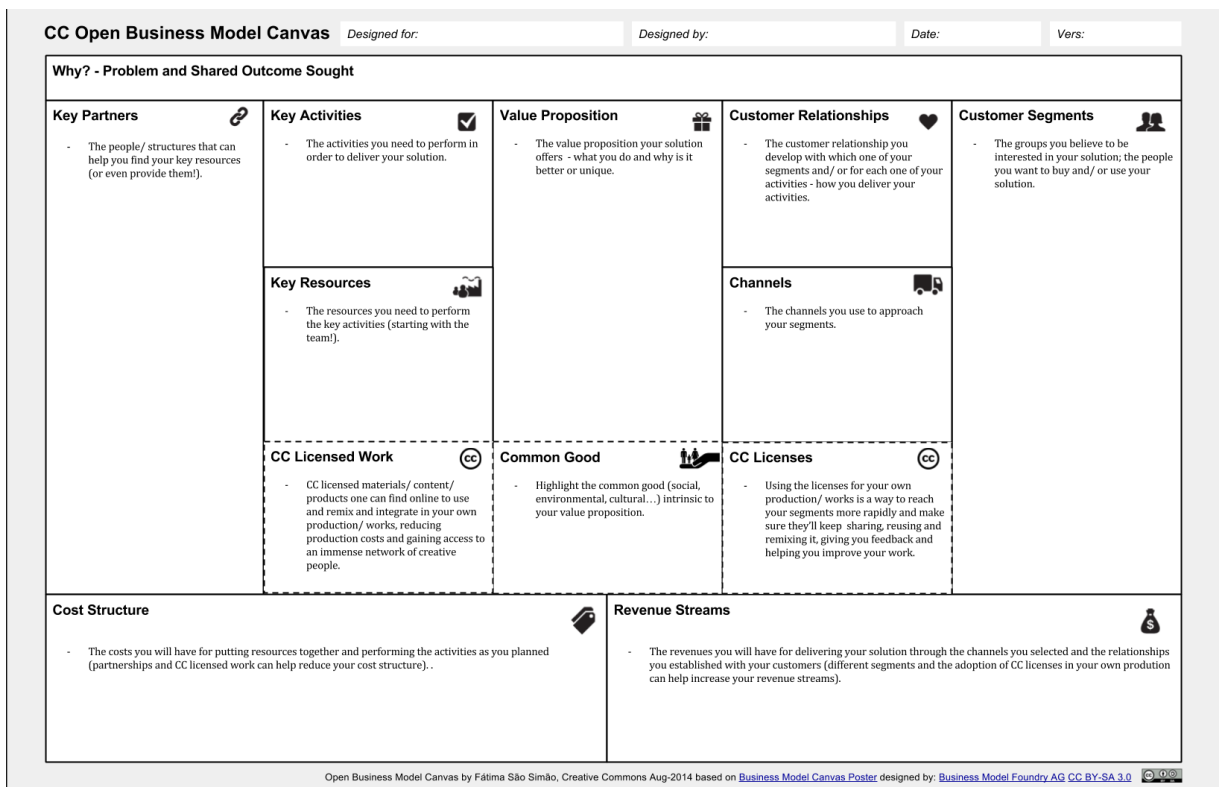


Fig. 2: CC Open Business Model Canvas graphic representation (Creative Commons, 2015)

Through the observation of this Open Business Model Canvas one can infer that, besides considering the original nine blocks proposed by Osterwalder and Pigneur, three new categories may be included:

- A.) the existing Creative Commons licensed works (as a pool of countless licensed contents available on the web to openly use and reproduce),
- B.) the Creative Commons licenses themselves (as a way to promote the company's product and/ or reach the clients)
- C.) a Social Good aspect to consider as part of the central value proposition of the business.

### 3. Using Open Licenses in Business<sup>6</sup>

To succeed in today's global market, every company needs to be creative and fast:

- the more creative a company (or freelancer) is, the better chance it has to stand out and attract potential clients; and
- the faster it reaches the market, the better chance it has to be recognized as a pioneer and prevent others from copying its ideas.

Considering the Creative Commons Toolkit for Business - a project developed to help clarify the effects of open licensing in business, we should now look into each one of the major benefits it points out.

#### i. Reducing production costs

*"You can produce effective materials with a small investment by using CC licensed works (design, photography, film, music...) made available by a generous community of authors. The only drawback is that you can find other companies using the same CC licensed works. But hey, if you are a startup or a company launching a new product, this can be a great starting point!"* (Creative Commons, 2015)

By using the available CC licensed works, a company can significantly reduce the investment it needs to make when launching a new product or service in the market (cf. *idem*, 2015).

For example, when a startup develops a new product that it is about to launch but it needs an appealing image and doesn't have the budget to cover communication and

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<sup>6</sup> The ideas presented in this section result from a shared document produced for the development of the Creative Commons Toolkit for Business, coordinated by Fátima São Simão (Creative Commons Portugal Public Lead), in collaboration with the copyright lawyer Teresa Nobre (Creative Commons Portugal Legal Lead) and Paul Stacey (former Creative Commons Associate Director of Global Learning), and include contributions and comments from Eric Steuer, Sarah Pearson and John Weitzman.

The document is available for consultation at the following link:

<https://docs.google.com/document/d/1rDLqZ95fatIAz-17efwJL7oXz9Y48peExZF4y4EQNks/edit?usp=sharing>

(Creative Commons, 2015).

marketing costs: by using CC licensed works (design, photography, film, music...), made available by a worldwide community of authors, it can produce effective communication materials without needing to make significant investments. This may also apply to situations such as product design or product development.

A good example of this specific benefit is audiovisual companies that often use CC licensed music to complete their videos. Building Pictures<sup>7</sup>, a Portuguese startup focused on developing videos for architecture and construction sectors' communication, uses CC licensed music as soundtrack to most of its productions.

Going back to the CC Open Business Model Canvas (Fig. 2), this means the company would be considering opening its business model through using CC licensed materials.

Like in any strategy there is a degree of risk attached to this: other companies might be using the same CC licensed materials and this could lead to problems in entering the market such as guaranteeing that the product is effectively perceived as one originally wished. But this risk applies to any communication material in general (in different degrees): even when using protected material, one can never be sure of not being copied, regardless of how strong copyright law is. Going back to the Building Pictures example: there is no guarantee that another film production company can't use the same music on their videos, regardless of it being openly licensed or copyrighted.

This does not eliminate the much higher benefit of hiring qualified professionals to develop more original and exclusive content. On the other hand, it suggests the possibility of recruitment through CC content search (which is particularly beneficial to companies that do not have a good support network or knowledge about who can provide the products/ services they are looking for). In the case of Building Pictures, in future bigger productions, the company might already have the means to hire a composer to develop exclusive music to their videos.

ii. Reducing transaction costs and legal uncertainty

*“Standardized contracts are one means of reducing transaction costs and legal uncertainty associated with copyright licensing. Copyright owners can be difficult to locate or hard to negotiate with. Even if you reach an agreement, you will probably need the help of a lawyer. Creative Commons works with lawyers from all over the world so that you can freely use a license suite that works globally.”* (Creative Commons, 2015)

Many companies and professionals who have ever tried to use copyrighted works owned by third parties are aware of how burdensome the rights clearance process can be. Authors and owners sometimes may be difficult to locate; other times they are not interested in engaging in negotiation; the terms and conditions imposed can also make it impossible to get a deal; lastly, when a company does reach an agreement, if it

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<sup>7</sup> [www.buildingpictures.pt](http://www.buildingpictures.pt)

doesn't hire a specialized lawyer to draft the contract, it will probably be at risk of not getting all the rights it needs in order to proceed with the intended use.

Creative Commons has been working for more than 10 years with lawyers from all over the world so that its standardized license suite works in every single of the 70 jurisdictions where it is represented by affiliates. CC licenses are probably the free standardized copyright licenses with the highest global reach. CC licenses are currently used by millions of people and businesses, including some of the biggest institutions in the world, such as Google, Wikipedia, Flickr, YouTube or Vimeo (see Creative Commons, 2017). And in the few cases where the licenses have been challenged in court, courts have considered the licenses to be valid (cf. *idem*, 2015).

OpenDesk<sup>8</sup> is an example of how CC open licenses can not only simplify licensing processes but also promote the internationalization process of a startup. By connecting designers to its customers and local makers around the world through its online platform, OpenDesk has developed an easy affordable way to set up contemporary office spaces. Most of its designs are licensed with CC-BY-NC license, which means the customer and maker can copy the design as long as they don't use it for commercial purposes directly<sup>9</sup>.

The example of Building Pictures (see above) also benefits from this advantage of the licenses: whenever the company chooses another song to add to its videos, they do not have to locate the composer or record label for copyright clearance.

CC licenses can therefore be an effective means to help a company reduce the costs of the transactions (intrinsic to international activity) that would otherwise be necessary every time it made another sale or wanted to use and reuse content in its commercial activity. By doing so, the licenses also grant a possibility of control that would otherwise be almost completely in the hands of specialized intermediaries.

### iii. Increasing access to innovation

*"Making your product available to your target audience under a CC license allows you to do market tests before releasing its final version. Your early adopters can try your product beforehand, give you feedback about it and influence the market you have targeted. This way, you improve your product while maximizing future benefits and often reducing innovation and marketing costs."* (Creative Commons, 2015)

Using CC licenses on produced content and making it available to the company's target audience may turn out to be an effective way of doing market tests before they actually release the final product (cf. *idem*, 2015).

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<sup>8</sup> [www.opendesk.cc](http://www.opendesk.cc)

<sup>9</sup> The company is actually so committed to this open licensing spirit that they developed a whole page on their website explaining what they mean with it: <https://www.opendesk.cc/about/non-commercial-use>



By doing so, companies allow their potential clients and partners to actually try the product beforehand and provide feedback. The company can always reuse this feedback to promote the product and make it sharable through this new network of customers-collaborators, which considerably contributes for its marketing campaign without any additional costs. This is a way to catch the attention of early adopters that can effectively influence the target market.

At the same time, by releasing and allowing clients and partners to reuse and readapt products, the company can engage them in its development process, becoming part of a collaborative innovation process or even the international research, development and innovation (R&D+i) team the company might have never been able to afford.

A successful example of this is Arduino<sup>10</sup>, “an open source electronics platform based on easy-to-use hardware and software”. By providing openly licensed products and content they allow their community of users to actually engage in an open innovation process that can actually result in new products. As suggested, “part of Arduino’s success is because the founders made themselves the first customers to their product” (Stacey and Pearson, 2017, p.48).

#### iv. Increasing first mover advantage

*“Copyright gives you exclusive rights over your work. This means others cannot use it without your permission. By licensing your work with CC, you will allow others to use your work. Your work will circulate more widely, which can help you gain an interesting market share. In other words, you can accelerate your access to the market and increase your chances to establish a first mover advantage.”* (Creative Commons, 2015)

Intellectual property (IP) is general is a well-known barrier to market entry (Peppal *et al*, 2008 ; Towse and Hendke, 2013; Ginsbrugh and Throsby, 2014). This can happen in two ways: on one hand, it prevents the company from openly using goods that are under IP protection and should be more accessible (particularly, those that benefit from public funding, like most scientific production) and, on the other hand, it sometimes prevents the company’s own creative/ innovative products to enter the market as it is often too expensive to protect them (and keep them protected) when in conflict with more resourceful competitors.

By licensing its own production under CC, the company will be not only accelerating its possibilities to access the market (and, thus, increase its chances to gain an interesting market share – even if it is a small niche, which for most creative businesses is crucial) but also raising awareness and building a following that can continue to be constantly used and multiplied in many different ways.

If the product is indeed innovative this might mean the company will have established a first mover advantage. This means that, while its competitors are still thinking of ways to copy the product, the company will already be in a comfortable position to

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<sup>10</sup> [www.arduino.cc](http://www.arduino.cc)

continue innovating and eventually making it ever more difficult for them to catch up with its pace.

On the other hand, by using a CC license, the company ensures that the product circulates more freely and thus becomes more accessible to its potential clients. This, of course, implies that it has developed an interesting business model around this same product.

This can be particularly useful for creative companies as it can apply directly to their value proposition and they can always design different versions of their products/ services: the more one uses CC licensed works to develop them the lower the price they can apply to attract new clients. On the other hand (and once the product/ service has caught the target segment's attention), the more the company can customize it (and the more effort it puts into it), the more its clients will be willing to pay for it.

As we've also seen, licensing work under CC and rapidly accessing the market can be used as a tool to test potential clients and obtain valuable feedback that will allow the company to improve its product/ service in the future.

Again, this is probably more evident for creative companies or professionals such as designers, architects, film producers, composers and performers. But it is also true for any other industry. Every company or independent professional needs to add a creative component to their work at some point. And today even more: if a company (especially a startup) has the will to be innovative and sustainable in today's competitive global market, creativity is key. And, when both resources or knowledge in this sphere are short, CC open licenses might just be the best way to start it.

By making their tool accessible, shareable and "remixable" (under the use of a Creative Commons license) by anyone interested, Osterwalder and Pigneur's Business Model Canvas soon became the most widespread canvas to help young startups structuring their businesses. This was crucial to make their business rapidly gain and keep an important market share, despite of the competition that followed. (Or even the competition that was already in place – but not openly licensed.) The choice to openly licensing the Business Model Canvas made it very easy and cheap to share, use and reuse. Many startups, incubators, accelerator programmes, entrepreneurial workshops use it and continue to promote it, without having to ask for permission or be payed for doing it. Under the umbrella of Strategyzer<sup>11</sup>, the Business Model Canvas continues to serve as the main key for this company to sell its contents (books, app, training videos...) and deliver services such as certified workshops (although others can still develop their own formats), online courses or specialized coaching to young teams. The company has also developed a management software based on the principles of the canvas, that startups will easily buy as they feel familiar with and trust it.

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<sup>11</sup> <https://strategyzer.com>

v. Increasing "opportunity benefits"

*"When you license a product with CC, you increase your chances to enjoy "opportunity benefits". If you make your product available for others to use, adapt and share you might be surprised by unexpected returns, such as new forms of revenues arising from the derivative works. Letting the public know that you are interested in collaborative works can also enhance your reputation."* (Creative Commons, 2015)

Opportunity costs are a well-known economic concept, created to define the cost of not having taken the benefit of an alternative option to one's decision.

When a company uses a CC license in a product, it faces opportunity costs. But it is also increasing the chances to enjoy opportunity benefits. This means that, by making its product available for others to reuse, readapt and share, the company might be surprised by unexpected returns it would have otherwise not even guessed possible; namely, the opportunity to find partners around the world that will want to participate in the product's development or invite the company to engage in further collaborative projects.

CC licenses open up the possibility of forming a collaborative, distributed production network that can include fellow creators, end users, customers and partners who make improvements to the actual design or functionality of their product. The result can be unexpected: it can be a brand new product, an extended version of the original or even a series of different products (whether or not related to the original).

When a company marks a product with a CC license, it is also building a reputation: it shows the public that it is broadly interested in collaboration and interaction — even outside the context of the CC license (this is evident, for example, in the case of Alex Osterwalder and Pigneur's original Business Model Canvas, Fig. 1). The use of CC is not only valuable from the perspective of its proven legal asset as a copyright-based license, it can also be a powerful tool for the construction of a solid network of stakeholders around the company. This means open licenses are also a communication tool as their use can be shorthand for *"we get the Internet, we're on the right side of this debate, and we want our users to know that we see them as partners/collaborators."* (Creative Commons, 2015) - they allow the company to present itself as a knot of the world wide (online and offline) web.

vi. Promoting sustainability

*"When you use CC licenses you show that your business is socially responsible: you are working towards generating revenue but you also want to make sure that others can benefit from your work. CC licenses place your company in a network of collaborative clients, partners and suppliers, allowing you to keep a light structure and reduce costs by using only resources that are essential."* (Creative Commons, 2015)

The use of CC licenses or CC licensed work in a product or service can also send a message to the public that the company is socially aware and is working towards generating revenue but equally ensuring that everyone can improve and benefit from the work that develops.

By placing the company in a network of collaborative clients, partners and suppliers, the use of CC licenses allows it to keep a light structure, reducing costs by only using the resources that are essential to the business and work on a network economy model. It also guarantees that others get the chance to develop new business models, create new products and services and generate new jobs and revenue streams after that same original product, not having to replicate the entirety of the work that had been developed and thus preventing waste.

Of course, this does not depend only on the use of open licenses but in a whole entrepreneurial attitude and conscience, one more aware of the risks of looking into business as a pure profit-generation mechanism, regardless of its ethical, social, cultural and environmental impacts (Kim and Maubourgne, 2006; Mason, 2008). But the use of CC licenses (and open licensing in general) in businesses can be a way to promote a network of sustainable open small and medium enterprises (SMEs) as opposed to a market ran by closed large corporations that, by creating global monopolies based on a protective proprietary attitude, often inducing artificial scarcity and leaving many users, clients, workers and entrepreneurs aside (Raymond, 2001; Berardi, 2012; Haiven, 2014).

Any one of the examples mentioned above have benefited from this aspect of open licensing. It is particularly easy to understand this if we focus on the number of “derivative” business models generated by the original open model. This is very clear in cases like Arduino, Blender or Strategyzer, whose users have become their partners, clients or even suppliers. Yet, it is still lacking further analysis to back up empirical observation.

#### **4. Conclusion**

We have attempted to argue that open licenses can be an effective asset not only for market entry but also to promote sustainability in business. Of course, as every other instrument, the adoption of open licenses also implies risks such as non-exclusivity or the possibility of having undesired uses or derivations of the original product or service. Yet, in terms of general welfare, because they imply a wider access to the benefits produced, these risks seem to be less damaging than the well-known negative impacts of proprietary capitalist business models (which often end up repressing overall creativity and innovation). Open business models seek a more holistic kind of profit; one that does not only translate into capital accumulation but also implies other types of benefit (namely, cultural or social).

It is important to note, though, that the general legal framework worldwide is still adapting and the current copyright reform discussion does not seem to entirely integrate this vision. The major conglomerates have more power in negotiating and pushing laws in their favor. On the other hand, there seem to be myths and misunderstandings in relation to the actual benefits of open licensing (which can also significantly benefit incumbents). We are indeed in face of a paradigm shift when it comes to doing business. But the discussion is not totally clear nor equally perceived by all participants. A copyright reform is, of course, crucial (as well as other reforms like competition law and other economic regulations). But unless there is a serious investment in education and promotion of this new spirit of doing business, it will be difficult to actually adopt such open culture. Similarly to environmental issues, it is also essential that citizens understand the actual risks of continuing to promote a protective business culture. And this means it is important that people understand the actual implications of intellectual property in general and how it currently often represents an instrument of power rather than an instrument of growth.

Although many major institutions such as the United Nations or the European Commission have begun to adopt open licenses (namely Creative Commons licenses), there seems to be a general lack of awareness as to their impact and process. In specific cases, the will to promote their use is so misunderstood that the use of the licenses is seen as more important than an actual copyright reform<sup>12</sup>. This indicates that their use is not being effective. The existence of these instruments was created to offer a transitory solution, knowing that legal reforms are generally slow and the developmental pace of technology required a faster response. Yet, the discussion still seems to ignore the full potential of a more open economy. Often startups and young professionals, who would more promptly benefit from such a reform, do not seem to be aware or even engaged in the discussion. Despite of the benefits, some prefer to adopt a protective attitude in fear of not being accepted by their clients or partners and damage their businesses.

Besides the companies referred in this paper, other examples could have been mentioned to illustrate our argument - both from private companies (The Noun Project<sup>13</sup>, Cards Against Humanity<sup>14</sup>, Wikihouse<sup>15</sup>, Tribe of Noise<sup>16</sup>, Elemental<sup>17</sup>, Figshare<sup>18</sup>, Monster Jinx<sup>19</sup>...) and from public institutions like museums or education

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<sup>12</sup> In the course of this research, the activist and professional activity of Fátima São Simão has had the opportunity to observe United Nations and European Commission agents responsible for the promotion of open policies defending open licenses or open licensed works even when it actually conflicts with the possibilities of an in depth copyright reform (that is the goal to which these tools were created). This has probably to do not only with a lack of understanding about the open culture, but also to other external factors, such as the pressure to show results.

Another example is the recurrent discussion inside Creative Commons itself, as an organization, about the role it will actually play if a more open copyright reform will finally be implemented. In fact, despite of having been initially created to raise awareness and CC licenses having been developed to be a temporary alternative to an unadjusted copyright framework, Creative Commons represents today such a powerful structure that it is hard to predict what will be its role in the future, if this copyright framework changes and the licenses become obsolete.

<sup>13</sup> <https://thenounproject.com>

<sup>14</sup> <https://cardsagainsthumanity.com>

<sup>15</sup> <https://wikihouse.cc>

<sup>16</sup> <https://tribeofnoise.com>

<sup>17</sup> <https://www.elementalchile.cl>

<sup>18</sup> <https://figshare.com>

<sup>19</sup> <http://www.monsterjinx.com>

structures (Reijksmuseum<sup>20</sup>, National Portrait Gallery<sup>21</sup>, PLOS - Public Library of Science<sup>22</sup>, Wikimedia Foundation<sup>23</sup>...). This suggests that open business models might be more than just an interesting solution at a micro level: they are also a powerful tool at the macroeconomic level, as they suggest the possibility of a new form of hybrid structures laying between public and private ends, with clear economic and social goals and responsibilities. It is therefore crucial to clarify the beneficial impacts and possible risks of an open business culture and to continue analysing the examples of those who have already adopted it and thrive.

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<sup>20</sup> <https://www.rijksmuseum.nl>

<sup>21</sup> <http://www.npg.org.uk>

<sup>22</sup> <https://www.plos.org>

<sup>23</sup> <https://wikimediafoundation.org>

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