



## Summer Honours Scholarship 2008-2009

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### **Summer session overview**

This report is the product of research conducted between December of 2008 and early March of 2009.

Supervision meetings with Dr Brian Yecies were conducted approximately once every two weeks. Initially, the idea for this report involved using *Dr Horrible*, Radiohead and Nine Inch Nails as case studies of how free online distribution could use the cultivation of devoted fan audiences, for both financial and political reasons. Over the course of our meetings and through my own reading, a more in-depth study of the major video streaming websites was incorporated into the report, including the pornography industry.

The report consists mostly of factual information drawn from some 37 news articles and weblogs, cited both in footnotes and in an appended bibliography. The report is also appended by a 2500-word annotated bibliography, discussing my readings of half a dozen more theoretical sources and possible avenues for further analysis. Also included is a short timeline of the major events described in the report between October 2006 and December 2008.

### **Report abstract**

Joss Whedon's *Doctor Horrible's Sing-Along Blog* is a freely distributed internet mini-series which has proved not only popular, but profitable enough to justify the use of internet distribution as a viable business model which largely bypasses the corporate distribution systems of the old media. This report is an endeavour to catalogue and explain the series' financial and cultural influence in relation to recent technological developments and the cultures surrounding them. As a comparison, I examine similar projects in the music industry, in the albums given away for free by Radiohead, Saul Williams and Nine Inch Nails. I also explore the phenomenon of streaming online video, a still-experimental medium which has accomplished very different things for different businesses – most notably through Google's *YouTube.com*, NBC's and News Corp's *Hulu.com*, and the pornography industry. I aim to use these case studies as a way of illustrating how the concept of 'cultural capital' is changing in the online environment.

## *Dr Horrible's Sing-Along Blog*

The direct-to-web mini-series *Dr Horrible's Sing-Along Blog* was a project initially conceived by Joss Whedon during the Writers' Guild strike of 2007-2008. Filmed over six days and on a budget of \$200,000, the series originally aired over one week in July of 2008 on drhorrible.com, available for free from anywhere in the world (hosted by hulu.com). After its original run, the series was made available again one week later, albeit only for free in the United States. The series is also available internationally, for a fee, from iTunes.

Whedon's choice to distribute the series on the internet for free seemed to many to be a financially dangerous decision, because, as he himself has pointed out, “you know, you make less money with free things.”<sup>1</sup> However, the series has proven highly profitable, whether despite or because of the series' free distribution.

After being released in September, the series' soundtrack quickly became a #1 bestseller on iTunes in Australia and Canada (where the series was no longer freely available), and #2 in the US, where the soundtrack was ranked as the #39 best-selling album in the US by *Billboard* magazine, despite only being available online.<sup>2</sup> By November, the profits from iTunes had covered *Dr. Horrible's* production costs, and the series was launched in DVD form, with bonus features such as a musical audio commentary track, through American-based Amazon.com<sup>3</sup>. The series has continued to turn a profit since then, quickly becoming the #3 bestselling DVD on Amazon a week after its release, and #1 bestseller on the Canadian Amazon.ca.<sup>4,5</sup>

While plenty of other internet videos have achieved massive cult followings and even mainstream recognition in the print and televisual media, this kind of direct profit is surprising for an internet mini-series, especially considering that it was available for free in the United States. The invention of the “direct-to-web supervillain musical” was ranked as number fifteen in *Time* magazine's fifty best inventions of 2008.<sup>6</sup>

The fan community was intimately involved in the *Dr Horrible* project. Very shortly

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- 1 *Hollywood Reporter* 2008, “Q&A with Joss Whedon”, <http://www.hollywoodreporter.com/> retrieved 11/1/09
  - 2 *Dr. Horrible's Sing-Along Blog* official fan site, “Dr. Horrible soundtrack makes top 40!”, <http://doctorhorrible.net/dr-horribles-sing-along-blog-soundtrack-makes-billboards-top-40-album-list/313/> retrieved 28/1/09
  - 3 Whedon, J 2008, “Dr. Horrible DVD”, *Whedonesque*, <http://whedonesque.com/comments/18243#270186> retrieved 11/1/09
  - 4 *Dr. Horrible's Sing-Along Blog* official fan site, “Dr Horrible in top 3”, <http://doctorhorrible.net/dr-horrible-in-the-top-5/733/> retrieved 28/1/09
  - 5 *Dr. Horrible's Sing-Along Blog* official fan site, “Dr. Horrible #1 bestseller”, <http://doctorhorrible.net/dr-horrible-1-bestseller/896/> retrieved 28/1/09
  - 6 “TIME's best inventions of 2008”, *Time*, [http://www.time.com/time/specials/packages/article/0,28804,1852747\\_1854195\\_1854133,00.html](http://www.time.com/time/specials/packages/article/0,28804,1852747_1854195_1854133,00.html) retrieved 28/1/09

after the drhorrible.com site went online in June of 2008 (including a teaser trailer and a newsletter), Joss Whedon announced the series' release date and general distribution plans in the form of a blog comment on the fan-operated website whedonesque.com. This posting also noted that the series would be free during its initial run, and then available for a fee afterwards, and made an appeal to the fans to actually buy the series, “instead of getting all piracy. We have big dreams, people, and one of them is paying our crew.”<sup>7</sup>

This direct appeal to the fan community, within a forum moderated by fans rather than paid professionals, is quite essential to Whedon's success. Whedon's fanbase is internet-savvy (more so than the writer himself, who claims to be “the guy who can't find the porn”) and independently operate elaborate, up-to-date, not-for-profit blogs and fansites such as Whedonesque.com, WhedonAge.com, DoctorHorrible.net, Buffy.wikia.com and BrownCoats.Com.<sup>8</sup> The *Doctor Horrible* fan website was active as early as March, and the official trailer aired on the fansite three days before the official website, which at the time contained only a single poster image.

Fans of *Dr Horrible's Sing-Along Blog* (and *Buffy The Vampire Slayer* – there was a musical episode) take part in literal sing-alongs at conventions.<sup>9,10</sup> When Whedon's television series, *Firefly*, was cancelled by Fox, fans actively campaigned for the show's continuation, most notably by purchasing an advertisement in *Variety* magazine for the series, and later by holding “Serenity Day”, upon which fans purchased DVD copies of *Firefly* and its sequel movie, *Serenity*, to give as gifts and demonstrate to Fox that the franchise could still be profitable.<sup>11</sup>

With the announcement of the *Dr Horrible* DVD, Whedon fans were offered another chance to participate in the series' culture, by producing their own three-minute supervillain musical videos (that is, applications to join the Evil League Of Evil). Ten of these fan-made films were included as bonus features in the official DVD.

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7 Whedon, J 2008, “*Dr Horrible* website is live”, *Whedonesque*, <http://whedonesque.com/comments/16734#6716> retrieved 11/1/09

8 Rosen, L 2008, “New Media Guru”, *Written By*, <http://www.wga.org/writtenby/writtenbysub.aspx?id=3438> retrieved 11/1/09

9 Jackson, J 2008, “*Dr Horrible* and the *Buffy* Horror Picture Show”, *Paste*, [http://www.pastemagazine.com/high\\_gravity/2008/08/dr-horrible-the-buffy-horror-picture-show.html](http://www.pastemagazine.com/high_gravity/2008/08/dr-horrible-the-buffy-horror-picture-show.html) retrieved 27/12/08

10 *Dr. Horrible's Sing-Along Blog* official fan site, “Interview: *Dr Horrible* project manager”, <http://doctorhorrible.net/interview-dr-horrible-project-manager/> retrieved 27/12/08

11 *Browncoats* 2005, “Cancellation”, <http://www.browncoats.com/index.php?ContentID=42e95a1f27c00> retrieved 28/1/09

## **The value of intellectual property: free distribution**

The market pressures of supply and demand behave differently in the culture industry, because the concept of “scarcity” means something very different within 21<sup>st</sup>-century internet culture than what it means to other economies. A cultural product such as a film or a song – an item of intellectual property – is not a finite physical commodity, but an infinitely reproducible idea. The practice of piracy reflects the infinite supply of reproducible ideas. Ignoring intellectual property, there seems to be no immediate need to pay for a product which is freely available and in abundant supply.

Of course, reducing cultural products to this physical level doesn't describe them accurately: we do not price DVDs and books according to how much it cost to publish them. Similarly, you might buy a CD or a book, and that physical item is yours, but you would not claim that the contents of that physical item was “your song” or “your story”.

The cultural products we enjoy have some sort of economic value. This much should be obvious: it costs money to create a film, and so that film must be worth something to someone, regardless of whether the audience must give money in order to access it. Considering the profitability of various sectors of the culture industries, such as Hollywood films, it would seem that the world values certain cultural products extremely highly: we are constantly shown evidence from these sectors that cultural production and distribution can be a full time job and a fantastic source of income. However, in treating the internet not as an obstacle, but as a new method of distribution, certain projects have greatly benefited from the reduced costs and ease of distribution.

After the band Radiohead's contract with the record company EMI expired in 2003, the band chose not to renew their contract or seek out another company. The band's singer, Thom Yorke, said “I like the people at our record company, but the time is at hand when you have to ask why anyone needs one.”<sup>12</sup> (This comment is reminiscent of an early reply to Whedon's announcement of the release of *Dr Horrible*: “Hopefully the DVD will be sold direct, cutting out retailers in the same way they are cutting out the studios.”<sup>13</sup>) In October of 2007, Radiohead released the album *In Rainbows* on their own website, [inrainbows.com](http://inrainbows.com), for whatever price the customer thought was appropriate (including for free).

In its first month, 40% of the one million people who downloaded the album from the

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12 Tyrangiel, J 2007, “Radiohead says: pay what you want”, *Time*, <http://www.time.com/time/arts/article/0,8599,1666973,00.html> retrieved 21/1/09

13 “zz9” 2008, “*Dr Horrible* website is live”, *Whedonesque*, <http://whedonesque.com/comments/16734#36731> retrieved 11/1/09

official website paid for it, at an average of about £3 (although many more would have downloaded it through BitTorrent).<sup>14</sup> By December of 2007, the album had made more money than the band's previous number 1 chart-topping album, *Hail To The Thief*.<sup>15</sup> The download service was discontinued on December 10<sup>th</sup>, and *then* physically released in music stores between December 26<sup>th</sup> and January 1<sup>st</sup>, after which it became the number 1 album in both the UK and USA through traditional album sales alone.<sup>16</sup> Radiohead were nominated for seven Grammy awards in 2009.<sup>17</sup>

Trent Reznor of *Nine Inch Nails* has also experimented with similar kinds of distribution since his contract with Interscope Records ended in October of 2007.<sup>18</sup> After the release of *In Rainbows*, Reznor criticised the album during an interview with the Australian Broadcasting Corporation as a bait and switch - "they get you to pay for a MySpace-quality stream as a way to promote a very traditional record sale."<sup>19</sup> In November of 2007, Reznor used his own website, nin.com, to advertise the free release of an album by relatively unknown hip-hop artist Saul Williams, *The Inevitable Rise and Liberation of Niggy Tardust*, produced by Reznor, on the basis that "Saul's not the household name (yet!) that Radiohead is".<sup>20</sup> Largely thanks to Reznor's influence, this album made about US\$140,000 in two months, through downloads with an optional price of US\$5, with about one in five listeners choosing to pay.<sup>21</sup> After this time, the option to download the album for free was removed from the website, though it was still available for sale.

Reznor expressed some frustration at the fact that only one in five people were willing to pay the price of a hamburger for a music album, but Williams himself was very pleased and highly optimistic: he felt that Reznor's disappointment "stems from being heavily invested in the past. For modern times, for modern numbers we're looking great, especially for being just two months into a project".<sup>22</sup>

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14 Byrne, D 2007, "David Byrne and Thom Yorke on the real value of music", *Wired* 16.01, [http://www.wired.com/entertainment/music/magazine/16-01/ff\\_yorke?currentPage=all](http://www.wired.com/entertainment/music/magazine/16-01/ff_yorke?currentPage=all) retrieved 21/1/09

15 NME News 2008, "Radiohead reveal how successful *In Rainbows* download really was", <http://www.nme.com/news/radiohead/40444> retrieved 21/1/09

16 NME News...

17 Recording Academy 2009, "51<sup>st</sup> annual Grammy awards nomination list", [http://www.grammy.com/grammy\\_awards/51st\\_show/list.aspx](http://www.grammy.com/grammy_awards/51st_show/list.aspx) retrieved 3/2/09

18 Cohen, J 2007, "Nine Inch Nails celebrates free agent status," *Billboard*, [http://www.billboard.com/bbcom/news/article\\_display.jsp?vnu\\_content\\_id=1003655498](http://www.billboard.com/bbcom/news/article_display.jsp?vnu_content_id=1003655498) retrieved 25/1/09

19 Quoted in Carr, D 2008, "Nine Inch Nails, Radiohead, free music and creative competition", *LA Weekly*, <http://www.laweekly.com/2008-05-29/music/trade-your-heroes-for-ghosts/2> retrieved 25/1/09

20 Reznor, T 2007, "NiggyTardust!", *[nin.com]*, <http://nin.com>, retrieved 25/1/09

21 Digg 2007, [http://digg.com/music/Trent\\_Reznor\\_releases\\_Saul\\_William\\_s\\_album\\_download\\_info](http://digg.com/music/Trent_Reznor_releases_Saul_William_s_album_download_info), retrieved 25/1/09

22 Sandoval, G 2008, "Unlike Trent Reznor, Saul Williams isn't disheartened", *CNET*, [http://news.cnet.com/8301-10784\\_3-9848536-7.html](http://news.cnet.com/8301-10784_3-9848536-7.html) retrieved 3/2/09

In March of 2008, Reznor released his own new album, *Ghosts I-IV*, under a Creative Commons non-commercial share-alike license. The first nine tracks of the thirty-six track album were made available for free download from Nine Inch Nails' website and officially through BitTorrent trackers such as The Pirate Bay. The rest of the album costs US\$5 to download from nin.com, which also offers a number of more expensive physical releases including CDs, DVDs, collector's edition box sets, etc. Downloaders also have access to the high-quality FLAC files rather than MP3s, if they desire.

The album was highly successful, reaching #14 on the Billboard 200 list.<sup>23</sup> The 2500 limited edition box sets sold out almost immediately, and the album has been nominated for two Grammy Awards in 2009.<sup>24,25</sup>

It is worth noting, however, that the Creative Commons license that *Ghosts I-IV* was released under means that anyone can legally copy and redistribute the album so long as they credit NIN and do not use the music for any commercial purpose. This means that electing not to pay the artist and instead acquiring the whole album for free from a third party, such as BitTorrent, is perfectly legal. Even more so than in the previous cases, the removal of all legal concerns makes the consumer's choice to pay the artist a more personal one.

Nine Inch Nails' 2008 album, *The Slip*, was released for free in its entirety under a similar license, announced by Reznor on his website with the words “this one's on me”.<sup>26</sup>

Like *Dr Horrible's Sing-Along Blog*, these projects also rely heavily on established fandom and artists' existing reputations rather than mass marketing (even in the case of Saul Williams, although the influential reputation, in this case, is not his own).

### **Fan cultivation**

The shared root of the words “culture” and “cultivation”, *colere*, implies a degree of intentionality. Using a somewhat archaic definition of the term, a person may set out to become “more cultured” by engaging in intellectual pursuits. The connotations of the term

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23 Billboard 2008, “Artist chart history - Nine Inch Nails”, [http://www.billboard.com/bbcom/retrieve\\_chart\\_history.do?model.chartFormatGroupName=Albums&model.vnuArtistId=5315&model.vnuAlbumId=12508](http://www.billboard.com/bbcom/retrieve_chart_history.do?model.chartFormatGroupName=Albums&model.vnuArtistId=5315&model.vnuAlbumId=12508) retrieved 3/2/09

24 Buskirk, E 2008, “Nine Inch Nails gets creative with Radiohead-style release”, <http://blog.wired.com/music/2008/03/nine-inch-nails.html> retrieved 3/2/09

25 Recording Academy 2009...

26 Quoted in Carr, D 2008...

have varied somewhat since the sixteenth-century sense of “cultivation through education”.<sup>27</sup> In this light, there is a hint of irony in the term “popular culture”, and the notion of individuals or groups having or lacking culture would render terms such as “comic book fan culture” paradoxical. Regardless of these connotations, though, fan cultures are appropriately named, and flourish when properly nurtured.

A theoretical examination of what exactly “fan culture” is and what other benefits lie in cultivating fan communities would also be appropriate to my thesis. Further information to this effect can be found in the annotated bibliography at the end of this report.

### **Profiting from free video: Hulu, YouTube, and the porn industry**

By far, the video distribution website which enjoys the largest share of online traffic is of course YouTube. Forbes estimates that YouTube receives one billion views per day (although YouTube's owners, Google, have often been unwilling to published detailed information on the website's success).<sup>28</sup> Almost half of all videos watched online by Americans in July of 2008 – five billion videos out of a total eleven billion – were watched on YouTube or Google Video (searches on Google Video also include results from YouTube).<sup>29</sup> However, providing free content in this kind of volume is expensive, with bandwidth costs of around US\$1 million per day, and after spending US\$1.6 billion on acquiring the company in 2006, Google has not come close to earning back its costs through advertising alone.<sup>30</sup>

The vast majority of YouTube content is user-generated (although some copyright material posted to the website often remains online, notably television advertisements, film trailers and music videos). In fact, the uploading of copyright material, as well as pornography or material which encourages criminal activity, is technically a violation of YouTube's terms of service agreement. However, due to the vast amounts of content uploaded, videos are not examined by moderators before going online, but are only reviewed and taken offline when flagged by users as inappropriate. This policy has proven controversial with copyright holders, most notably Viacom, who issued 100,000 takedown

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27 *Online Etymology Dictionary* 2001, <http://www.etymonline.com/index.php?term=culture> retrieved 31/1/09

28 Hardy, Q and Hessel, E 2008, <http://www.forbes.com/forbes/2008/0616/050.html> retrieved 28/1/09

29 Lipsman, A et al 2008, “Press release”, *ComScore*, <http://www.comscore.com/press/release.asp?press=2444> retrieved 31/1/09

30 Yen, Y 2008, “YouTube looks for the money clip”, *Fortune*, <http://techland.blogs.fortune.cnn.com/2008/03/25/youtube-looks-for-the-money-clip/> retrieved 31/1/09

notices in one month and sued Google for US\$1 billion in 2007.<sup>31,32</sup> The policy has also been attacked by conservative politicians on the basis that it allows for the distribution of footage of sex and violence.<sup>33</sup>

In mid 2007, NBC-Universal and News Corp announced their own plans to launch a similar video-sharing network, Hulu.com. The site officially launched in March 2008, boasting complete access to episodes from 250 popular television shows and 100 popular films, as well as segments and clips from other media.<sup>34</sup> Unlike YouTube, these are all professionally produced videos, which Hulu hopes will be more attractive to advertisers and content providers than the varying quality of lower-budget user-generated (or pirated) videos on YouTube. General Motors, for example, have advertised on Hulu since the website began, and consider Hulu content to be safe and of predictably high quality.<sup>35</sup>

In order to attract similar advertisers, YouTube arranged a deal with Lionsgate Films in July of 2008.<sup>36</sup> Later that year similar deals were brokered with MGM, EA, Universal Music and CBS (amusingly, CBS was once the other half of Viacom until a corporate schism in 2005).<sup>37,38</sup> However, none of these deals involve the kind of wide releases available on Hulu. In this case, videos uploaded by users which infringe on studio copyright are shown to studios, who are then given the option to either remove the video, or use the video as a vehicle for their own advertising. For example, YouTube pages containing music videos by Fall Out Boy or Kanye West, uploaded by fans, also contain information about who owns the content, and links to other content owned by Universal Music.

While the quality-controlled content of Hulu is more attractive, YouTube retains a cultural appeal that Hulu cannot match. In terms of fandom, the YouTube system (and the

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31 *FOXNews* 2007, "Media companies blast YouTube for anti-piracy policy", <http://www.foxnews.com/story/0,2933,252798,00.html> retrieved 2/2/09

32 *BBC News* 2007, "Viacom will sue YouTube for \$1bn", <http://news.bbc.co.uk/2/hi/business/6446193.stm> retrieved 2/2/09

33 Kirkup, J and Martin, N 2008, "YouTube attacked by MPs over sex and violence footage", *Telegraph*, <http://www.telegraph.co.uk/scienceandtechnology/3358061/YouTube-attacked-by-MPs-over-sex-and-violence-footage.html> retrieved 2/2/09

34 Hulu 2008, "Hulu.com opens to public", [http://www.hulu.com/press/launch\\_press\\_release.html](http://www.hulu.com/press/launch_press_release.html) retrieved 31/1/09

35 Dana, R and Steel, E 2008, "Can Hulu find its mojo with viewers?", *Wall Street Journal*, [http://online.wsj.com/article/SB120519822483125987.html?mod=technology\\_main\\_promo\\_left](http://online.wsj.com/article/SB120519822483125987.html?mod=technology_main_promo_left) retrieved 31/1/09

36 Brodesser-Akner, C 2008, "Turning piracy into profitability", *Advertising Age*, 79.28, pp 4-5.

37 Stelter, B 2008, "Some media companies choose to profit from pirated YouTube clips", *New York Times*, [http://www.nytimes.com/2008/08/16/technology/16tube.html?\\_r=2&8dp](http://www.nytimes.com/2008/08/16/technology/16tube.html?_r=2&8dp) retrieved 31/1/09

38 Stone, B and Barnes, B 2008, "MGM to post full films on YouTube", *New York Times*, <http://www.nytimes.com/2008/11/10/business/media/10mgm.html?ref=technology> retrieved 31/1/09

existing YouTube culture which predated Hulu) allow for far more involvement on the part of users in the form of “mash-ups” and remixes, content derived from copyrighted works. Remix culture is discussed in Lessig's *Free Culture*, examined in the annotated bibliography at the end of this report.

When it comes to profiting from online video, there is another sector which cannot be overlooked – the pornography industry.

The pornographic websites which generate the largest amount of traffic are sites which emulate the format of YouTube, “the tubes” (specifically YouPorn, Xtube and PornoTube).<sup>39</sup> This is unsurprising, considering the dominance of YouTube as a vehicle for internet video, and the fact that YouTube's terms-of-service agreement prohibits the uploading of pornography.

Of course, just as in the case of mainstream online video, some of the content submitted by users is original, and other content is the intellectual property of a third party. Piracy on the pornographic YouTube clones affects these businesses to the degree that content producers such as Bang Bros. have begun distributing branded clips with the expectation that they will be pirated on the tubes.<sup>40</sup> Effectively this is similar to the kind of advertising allowed by the deal between YouTube and copyright holders.

### **Future plans:**

The next step will involve fleshing out and integrating these factual details into a more theoretical framework (based on other readings discussed in the annotated bibliography below), particularly in relation to the concept of a cultural economy. The segments on *Dr Horrible* and the pornography industry particularly need to be expanded, as there is plenty more to be said about them and the financial success they have achieved through online distribution.

A more detailed technical account of the release of *Dr Horrible* (including the details of the film's free release causing a server crash; the limitations set in place by Hulu to limit its reception outside of the United States and the decision to remove these limitations for *Dr Horrible*; and the role in the series' distribution played by Felicia Day, an actress in the series who has previously worked on a *World Of Warcraft* based internet series called *The Guild*)

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39 Lynn, J 2008, “Where's the traffic?”, *XBIZ*, <http://www.xbiz.com/articles/business/92512> retrieved 19/1/09

40 “Kathee B” 2008, “Content run amok”, *XBIZ*, <http://www.xbiz.com/articles/business/96181> retrieved 19/1/09

seems like an important concept which I will need to research more.

With regard to the pornography industry, I intend to examine the cultural conflict between studio-produced content and user-produced content. In the case of YouTube-like websites, this might be examined in terms of piracy versus originality, but also has other implications regarding the relationship between sexuality and creativity. The consumption of sex as a commodity produced by mass culture relates in interesting ways to the consumption of cinema and music.

The final thesis will consist of an introduction, 3 chapters and a conclusion. Chapter one will discuss *Dr. Horrible's Sing-Along Blog* and the economic and political environment from which it arose. Chapter two will discuss similar cases in the popular music industry, as well the production, distribution and consumption patterns which differentiate this industry from both the music industry as it has existed in the past. Chapter three will discuss the corporate discourse regarding the conflict between online media forms and traditional packaged media. The conclusion will summarise the thesis and propose pragmatic suggestions for cultural industry practitioners and policy makers.

## **ANNOTATED BIBLIOGRAPHY: sources to be included in final thesis**

**Lessig, L 2004, *Free Culture*, New York: Penguin Press.**

*Free Culture* is an influential book criticising the enforcement of draconic copyright laws, written by copyleft activist and founder of the Creative Commons organisation, Lawrence Lessig. Though Lessig is a critic of Disney corporation and of the extension of copyright renewal terms, he acknowledges the creativity of Walt Disney himself and innovators like him who are now being oppressed by the enforcement of copyright. The core of *Free Culture* is Lessig's celebration of what he terms "Walt Disney creativity", creativity based on the reappropriation of existing cultural objects (which he acknowledges, may well be the only kind of creativity; at the very least, acceptance and celebration this kind of appropriation has been the norm throughout most of history – pp24-25). A powerful example of this concept which Lessig refers back to repeatedly is the Japanese phenomenon of *doujinshi*, comic books which reappropriate characters and plots from other authors'

material without permission – in clear violation of copyright, but exhibiting enough originality that the comic books are popular and widely accepted as legal.

With regard to fan culture, the *Dr. Horrible* fan videos are an example of the series' creators encouraging a more active kind of participation in the creative process, by remixing narrative and thematic elements of the series into something original. Lessig endorses projects such as this which require – and teach – higher levels of media literacy (pp36-40). Twentieth century media, he claims (perhaps a little too dismissively), was based on “read-only” culture, the consumption of culture broadcast from some other location, but “the twenty-first century could be different” (p37)

A more explicit example of remix culture, the remixing, re-editing and “mashing up” of audio and video content, is also relevant to my paper's discussion of the corporate politics of YouTube. A large number of YouTube mashups and remixes have been taken down from the website due to claims of copyright infringement (including some interesting mashups that have sadly been removed by Viacom). Some relevant YouTube videos which were available as of 2/2/09 include *Every Car You Chase* by VjBrewski (a mashup combining the songs “Chasing Cars” by Snow Patrol and “Every Breath You Take” by The Police, and their respective music videos: <http://au.youtube.com/watch?v=7O3Z00jn47M>), *Something Wicked This Way Comes* by Alberto González (a short horror film, using footage from the family film *My Neighbour Totoro* remixed with the *Lord of the Rings* version of “Requiem for a Dream” : <http://au.youtube.com/watch?v=rJajHA14T6I>), and *The Empire Strikes Brokeback* by mfish4 (remixed footage from *Star Wars* episodes 1-4 to create a trailer for a film about a secret love affair between Anakin Skywalker and Obi-Wan Kenobi, backed by the theme music from *Brokeback Mountain*: <http://au.youtube.com/watch?v=iuV9IXU5rDI>).

Also relevant is the fact that in January of 2009, Trent Reznor released four hundred gigabytes of high-definition concert footage from his last tour promoting *The Slip*. A group within the Nine Inch Nails fan community have since been remixing this footage into a DVD and Blu-Ray concert video, organised at first through nin.com, and shortly thereafter through the website thisoneisonus.org.

**Murray, S 2004, “Celebrating the story the way it is: cultural studies, corporate media and the contested utility of fandom”, *Continuum* 18.1, pp7-25.**

Murray's article discusses the role pre-existing fandom in the publicity of the

*Lord Of The Rings* and *Harry Potter* films, and the contrast between how the films' respective studios dealt with fan enthusiasm and piracy. New Line Cinema cultivated the *LOTR* fanbase into a powerful marketing tool, while Warner Bros. ostracised the *Harry Potter* fanbase by unnecessarily enforcing their IP claim to the franchise and lost a small portion of their audience because of the resultant fan backlash. The article repeatedly refers to the notion of intellectual property ownership in two related senses which can become confused – the copyright holders owning the property's financial life, and the fans owning the culture surrounding the property.

Murray acknowledges the shift from the historical depiction of fans as pathological consumers and victims of the mass media to the contemporary notion of fan culture as empowering, but she is critical of the current “elevation of fan agency often found in studies of cult media” (p8), and stresses the importance of political economy and legal studies perspectives in such analyses. Her critique of the history of cultural studies' depiction of fan agency highlights this agenda.

This critique also provides a number of insights and references to relevant studies. Henry Jenkins' 1992 book *Textual Poachers* posits that “controlling the means of cultural reception... does not provide an adequate substitute for access to the means of cultural production and distribution” (p12). While this observation is valid, it deserves to be reexamined in light of the combination of original and pirate content available on YouTube, which blurs the lines between fandom and cultural production. Matt Hills' 2002 *Fan Cultures* notes that fan cultures indulge in both “anti-commercial ideologies and commodity-completist practices” (p13), a dichotomy which identifies a central motivation for piracy and the distinction between a copyright holder's legal ownership and a fan's emotional ownership.

Similarly to Joss Whedon, Peter Jackson addressed the Tolkien fanbase directly when publicising his *LOTR* films, and sounded quite idealistic in his address: spoiler website *Aint It Cool News*, Jackson said, “was the only way I could imagine reaching all of you in an efficient way” (pp7-8). However, Murray goes on to identify why this appeal is not merely idealistic, but a strategic financial move – the fans would later willingly distribute promotional material at no cost to New Line Cinema, and getting the fans on-side earlier would allow the studio some defense against the inevitable hostility that some detail-obsessed fans would hold against the films. Murray later argues that behind the rhetoric, all this amounts to is a decision by New Line Cinema not to enforce their IP rights in certain cases where they stand to profit from free advertising, and certainly not a step towards Lessig's free culture – Murray phrases it as “the turning of the gamekeeper's blind eye, rather than the

legitimizing of poaching,” in reference to Henry Jenkins's book (p14).

Murray also expresses an interesting view of fandom from a business perspective: “corporations have... manoeuvred themselves into the paradoxical position of seeking to generate maximum emotional investment by consumers in a given content brand, but of needing to corral such emotional attachment into purely consumptive – as opposed to creative – channels” (p10). The article also coincidentally observes that Joss Whedon publically endorsed the technically piratical work of *Buffy* fan websites, while Fox (who own the rights to *Buffy*) issued cease-and-desist notices to *Buffy* fansites.

**Lewis, L (editor) 1992, *The Adoring Audience: Fan Culture and Popular Media*, New York: Routledge.**

An older source which provides a theoretical background in defining what fandom is, and attempts to portray fandom (in most of the authors' eyes, an oppressed minority) as membership of a productive subcultural community. There are several chapters of note which may prove useful to this thesis.

Fiske's chapter, “the cultural economy of fandom”, examines Bourdieu's notion of cultural economy, whereby “investing” in education and in certain kinds of “more valuable” cultural practices will result in a greater return, increasing the investor's social standing. Fan communities exist as a “shadow cultural economy” outside of the culture industries. Similarly, Jenson's chapter, “Fandom as pathology”, cites examples of fans being described in various contexts as deviants. Jenson and Fiske reduce the concept of “deviant fandom” to a cultural hierarchy defined by class, race, gender and age. Fandom is thus treated as an issue of high-culture versus popular-culture: extensive knowledge of every Marilyn Manson song makes a person an obsessive fan, but extensive knowledge of every book written by Mark Twain makes a person an aficionado or a scholar. Jenson also identifies a curious trait of a “good” audience: obsessive fans invest too heavily in cultural objects like football matches and soap operas and *Star Wars* premieres, while a “good” audience is receptive and undisruptive (p20). This definition is interesting in comparison to the depiction of the “passive audience” assumed by earlier critics of mass culture such as Adorno.

The chapter by Jenkins (whose book was also cited by Murray, above) on the productive nature of the science fiction fan community provides a detailed definition of fandom based on four criteria: fans have particular modes of reception, exist within a particular interpretive community, constitute a particular “art world” (or to borrow from

Bourdieu, a particular sector of the cultural economy) and an “alternative” social community or subculture.

**Brown, J 1997, “Comic book fandom and cultural capital”, *Journal of Popular Culture* 30.4, pp13-31.**

While Fiske applies Bourdieu's notion of cultural economy to fandom as it exists within “mass culture” as a whole, Brown examines a particular shadow cultural economy as it relates to itself. Like other cultural economies, comic books have a canon of highly valuable and influential works, and certain auteur creators who increase the cultural value of a work simply by virtue of being a part of its creation.

The key part of this article that I intend to draw upon is the relationship between financial economy and cultural economy. Comic books are often looked down upon as a cultural object, but the acquisition of financially valuable objects is culturally acceptable. Brown points out that comic book collectors often refer to their collections as investments when accused of wasting money or being childish, and indeed certain canonical comic books do appreciate in value. However, the economic value that comics hold within one community and the cultural value that they hold within another are merely coincidental: even those who do not read comic books would probably agree that to collect comic books for their economic value alone would be somehow odd and “inauthentic” if the collector didn't actually read comic books.

This relationship between financial and cultural capital is evident in fan discussion of purchasing *Dr Horrible* DVDs on Whedonesque.com,<sup>41</sup> as well as in Trent Reznor's condemnation of the Radiohead album *In Rainbows* as a bait and switch.<sup>42</sup>

**Coleman, G 2004, “The political agnosticism of free and open-source software and the inadvertant politics of contrast”, *Anthropological Quarterly* 77.3, pp507-519.**

Coleman's article discusses the political agenda of the developers of free and open-source software – an agenda which developers themselves generally describe as non-existent. This purported lack of political agenda allows particular kinds of open source software to be used and supported by different groups: businesses such as IBM emphasise

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41 *Whedoneque* 2008, “Dr. Horrible DVD”...

42 Carr, D 2008 ...

marketability and the empowerment of the consumer; leftists like indymedia.net emphasise that every computer using Ubuntu or Mozilla Firefox reduces the mass profits of businesses like Microsoft (p514). In either case, though, Coleman argues that open-source is defined by its comparison to other software, and the open-source movement “recalibrates some of the distinctions and associations between free speech and intellectual property” (p508) by using IP legislation to protect freedom of speech instead of to prosecute pirates and plagiarists, which intentionally destabilises the existing legal concept of copyright.

Coleman also refers to Lessig and the creative commons movement, as one of the many political forces which shapes the agenda of open-source software into its own image. Though she does not use Lessig's terminology, Coleman also identifies that the sharing of cultural material within the commons leads to increased media literacy (in this case, computer programming literacy) (p510).

Coleman's definition of political agnosticism is echoed by Joss Whedon when he regularly understates the political implications of *Dr Horrible*, a series which undoubtedly involves itself in the politics of contrast with the work of the studios against whom Whedon was protesting at the time. During the WGA strike, the intention to produce a cheap online mini-series had been creatively vague, and mostly a political goal, but months afterwards became an excuse for “making jokes about a horse.”<sup>43</sup> In his blog announcement of the series' free release, Whedon claimed that his highest priority was “to make a lot of silly jokes.”<sup>44</sup> However, he does acknowledge the serious political implications of *Dr Horrible*'s success, and has admitted that the series has attracted the attention of others interested in bypassing the studio system, but he maintains that he has simply been lucky and that others (particularly actress Felicia Day) did most of the work of distributing the series: “somebody coming to me for business advice is like somebody asking a guy who makes balloon animals how to pick up women.”<sup>45</sup>

There is also a world of meaning in Trent Reznor's words “this one's on me” in relation to his free album *The Slip*. Reznor has previously stated his political views towards the music industry and his distaste for the twentieth century system of corporate distribution, and his act of generosity towards his fans creates a dichotomy which only serves to highlight the greed of record companies.

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43 Rosen, L 2008...

44 Whedon, J 2008, “*Dr Horrible* website is live”...

45 Rosen, L 2008...

**Miller, P 2007, “Reeling in China's movie fans”, *The China Business Review* 34.2, pp35-39.**

The Chinese audience are increasingly becoming a powerful interest for the Western culture industry, as well as an academic interest of my own. The popularity of many Hollywood blockbuster films in China, combined with China's enormous population, makes them an attractive market, but the protectionism of the Chinese government and the extremely high rates of piracy make it extremely difficult to legally attract a paying Chinese audience. Even for those few foreign films which have received the approval of the government, the distributors are stifled by the nation's exceptionally poor IP enforcement. However, it is worth considering that the illegal free distribution of Hollywood films may have, at one stage, been the reason for their popularity (Hollywood films were entirely illegal in China until 1994) – but now that a legal alternative exists, the consumers are already used to not paying for the product.

Though not a vital element to my honours thesis, there is one other avenue that I would like to investigate here. While the potential for distributing *Dr. Horrible's Sing-Along Blog* in China is extremely limited (never mind the challenges of internet censorship or the ubiquity of piracy: the series is an English-language musical comedy), Joss Whedon's science fiction series, *Firefly*, has some potential for cultivating a unique fanbase in China. The series is set in a post-national culture which evolved from a combination of Chinese and American cultures, with all of the characters speaking Chinese as a second language, and one of the main characters hailing from the culturally advanced red planet Sihnon which was colonised by China. What's more, the science fiction genre provides a vehicle for conflict – even political conflict between imaginary groups such as *Firefly's* Union Of Allied Planets – without upsetting Chinese censors.

As far as I have seen, I don't believe that Fox ever applied to distribute *Firefly* in China, although I have not found any reliable sources on this.

In the next stage of the project, I intend to read the following books:

**Hills, M 2002, *Fan Cultures*, London: Routledge.**

An interesting-looking book that has been referred to by other sources in my reading.

**Williams, L (editor) 2004, *Porn Studies*, Durham N.C.: Duke University Press.**

A more recent book edited by Linda Williams, an author suggested to me by Dr Yecies for her 1989 book *Hard Core*.

The University of Wollongong library has copies of both of these.

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## Appendix: TIMELINE

October 2006 – Google buys **YouTube.com** for US\$1.6 billion in Google stock

February 2007 – **Viacom** issues 100,000 takedown notices on YouTube videos

March 2007 – Viacom files a US\$1 billion lawsuit against YouTube for copyright infringement

October 2007 – Radiohead's *In Rainbows* is released for an optional fee chosen by the customer

November 2007 – Saul Williams' *The Inevitable Rise and Liberation of Niggy Tardust* is

released for an optional fee of \$5

December 2007 – Free distribution of *In Rainbows* is discontinued, after outselling *Hail To The Thief* in online sales alone. The album receives a traditional release two weeks later.

February 2008 – Free distribution of *Niggy Tardust* is discontinued

March 2008 – **doctorhorrible.net** fansite launches;

**Hulu.com** launches free viewing of Fox and NBC programs and films in the USA; Nine Inch Nails' *Ghosts I-IV* is released under Creative Commons licence

May 2008 – Nine Inch Nails' *The Slip* is released for free under Creative Commons license

June 2008 – Official **drhorrible.com** site begins hosting actual content;

Whedon posts release schedule for *Dr. Horrible*

July 2008 – *Dr. Horrible's Sing-Along Blog* is released for free on drhorrible.com, hosted by Hulu

July-November 2008 – YouTube signs deals with Lionsgate, CBS and MGM

December 2008 – *Dr. Horrible* DVD is released on Amazon.com