

Executive Summary

Many of the resources that Americans own as a people — forests and minerals under public lands, public information and federally financed research, the broadcast airwaves and public institutions and traditions — are increasingly being taken over by private business interests. These appropriations of common assets are siphoning revenues from the public treasury, shifting ownership and control from public to private interests, and eroding democratic processes and shared cultural values.

In the face of this marketization of public resources, most Americans do not realize that some of our most valuable assets are collective and social in character — our “common wealth.” Collectively, U.S. citizens own one-third of the surface area of the country, as well as the mineral-rich continental shelf. Huge deposits of oil, uranium, natural gas and other mineral wealth can be found on public lands, along with rich supplies of timber, fresh water and grazing land. Beyond environmental resources, the American people own dozens of other assets with substantial market value, including government-funded research and development, the Internet, the airwaves and the public information domain.

Our government, for its part, is not adequately protecting these assets. Instead, it is selling them off at huge discounts, giving them away for free, or marketizing resources that should not be sold in the first place. These include, public lands, genetic structures of life, the public’s intellectual property rights, and cherished civic symbols.

The growing appropriations of public assets — and the spread of market values to areas of life where they should not go — could be called the “enclosure” of the American commons.

PART I: The Commons, Gift Economies and Enclosure

Part I sets forth the basic concepts that animate this report: the importance of the commons, the value of gift economies, and the harms caused by market enclosures of the commons.

1. Reclaiming the Narrative of the Commons.

To understand the importance of the commons in American life, we must first dispel the misleading metaphor of the “tragedy of the commons.” This and other concepts prevent us from understanding how human cooperation can in fact flourish and produce a robust and innovative commons in many contexts. This fact can be seen in self-organizing community gardens, scientific communities that share research results, and Internet communities that generate and share valuable information for free. The American experiment in self-governance is itself a commons, perhaps better known as a “commonwealth.” Through community commitments and cooperation, people often generate remarkable economic and social wealth, defying the standard economic narrative about self-interested utility maximization.

2. The Stubborn Vitality of the Gift Economy.

While the commons can be a physical resource owned jointly by all citizens or members of a community, it can also be seen as a social regime for managing common assets. One type of commons, the gift economy, is a powerful mode of collaboration and sharing that can be tremendously productive, creative and socially robust. The Internet is a fertile incubator of innovation precisely because it relies heavily upon gift-exchange. Scientific communities, too, are highly inventive and stable because they are rooted in an open, collaborative ethic. In some gift economies, the value of the collective output is greater as the number of participants grows —

“the more, the merrier.” The result has been called a “comedy of the commons,” a windfall of surplus value that over the long term can actually make the commons more productive — and socially and personally satisfying — than conventional private markets.

3. The Commons: Another Kind of Property.

If Economics 101 teaches the basic lessons about supply and demand curves, what might Commons 101 teach? There is not likely to be a unified-field theory of the commons any time soon. Each commons bears the distinctive imprint of its own resource domain, culture, history, legal system and scale of operation. That said, some of the general principles that tend to prevail in successful American commons include: openness and feedback, shared decision making, diversity of perspectives, social equity among members of the commons, environmental sustainability, and community vitality.

4. When Markets Enclose the Commons.

Markets have a tendency to extend property boundaries and market exchange to areas of life that are inappropriate, or at least debatable. When markets convert shared common assets into commodified market inputs, a market enclosure has occurred. Besides privatizing shared wealth without fair compensation to the public, market enclosures can also erode gift economies that sustain social and moral relationships within a community. Frequently, they coercively put price tags on resources that are “not for sale” — one’s health, public institutions, public lands, and cultural traditions. Market enclosure is a useful term because it describes the pervasive imperialism of market values in American life today, and points to the need for reviving our traditions of civic republicanism.

PART II: Varieties of Market Enclosure

Part II examines five major sets of commons and the distressing enclosures that are now laying siege to them.

5. The Colonization of Frontier Commons.

For centuries, many parts of nature have been considered the “common heritage of mankind” — resources to be shared by all, parts of a divine creation that sustain life. Now market forces, armed with incredible new technologies, are transforming many “frontier commons” into new feedstock for global markets. These frontier commons include wildlife and local ecosystems threatened by the property-rights movement; global water supplies that are being commodified for transport across vast distances; and the genetic structures of life itself. The growing colonization of frontier commons threatens to usher in profound, unpredictable disruptions of nature.

6. The Abuse of the Public's Natural Resources.

Not many Americans realize that they collectively own one-third of the nation’s surface area and billions of acres along the outer continental shelf. These public lands — richly endowed with minerals, oil, forests, grasslands and more — constitute one of the largest collections of commons for the American people, held in trust by the U.S. Government. The sad truth is that the government’s stewardship of these resources represents one of the great scandals of the 20th Century. While the details vary from one domain to another, the general history is one of antiquated laws, poor enforcement, slipshod administration, environmental indifference and failure to ensure the public receives a fair rate of return on commercial uses of common assets.

7. Can the Internet Commons Be Saved?

Government investment and the gift economy ethos of academia helped make the Internet the largest, most robust information commons in human history. Now this unparalleled public vehicle for free speech and social communication stands on the threshold of market enclosure. Various industries are seeking to compromise the open, end-to-end architecture of the Internet and replace the public’s information commons with proprietary control. The enclosure of the Internet commons is being achieved through the attempted subversion of open technical standards; unprecedented expansions of intellectual

property law at the expense of free information exchange; “techno-locks” that reduce the public domain and fair use rights; and the privatization of Internet governance.

8. The Giveaway of Federal Drug Research and Information Resources.

Until the late 1970s, federally sponsored R&D was considered a public resource that should be liberally shared with the public and other researchers. Since 1980, however, after a concerted campaign by business, Congress and the Executive Branch have reversed this long-standing principle by empowering federal agencies to give away exclusive rights to government research. As a result, the U.S. Government now forfeits billions of dollars in revenue to which taxpayers are entitled, and companies and universities are allowed to charge exorbitant prices for medicines and other products developed through government research. Meanwhile, mountains of valuable reports, databases, congressional documents, and other government information resources remain inaccessible to the public or ridiculously expensive.

9. Enclosing the Cultural Commons.

The past twenty years have seen dramatic new market enclosures of the cultural commons. The fiction of broadcasters serving as conscientious stewards of the public’s airwaves grew embarrassingly thin by the late 1990s as the “public trustee” model of broadcasting effectively morphed into outright private ownership of the spectrum. Even as wireless phone companies have paid \$37 billion at auction for spectrum licenses since 1994, broadcasters succeeded in convincing Congress to give them additional free spectrum space for digital television — licenses valued at as much as \$70 billion — and to curb the growth of low-power radio as a local, non-profit alternative. The commercialization of American culture, meanwhile, has intensified with aggressive new marketing in the public schools, intrusive marketing to captive audiences, and aggressive branding campaigns that are converting revered non-commercial institutions— public broadcasting, sports stadiums, the Olympics, Broadway theaters, journalism and more — into crass marketing platforms. American culture is being transformed as it loses its “un-marketed” open spaces, a pervasive privatization that can weaken even the functioning of deliberative democracy itself.

Part III: Protecting the Commons

10. Strategies for Reclaiming the American Commons.

Americans can fight back against the “silent sell-off” of our national heritage by making new use of our most precious tradition of all — our system of self-government. Federal, state, and local governments can and should help bolster a social and ethical commons for market activity; stop the giveaway of taxpayer-owned resources; create stakeholder trusts that pay dividends to all citizens from collectively owned assets; and capture capital gains from public infrastructure; among other initiatives. Meanwhile, individuals and social groups should explore innovations in private law and technology that can keep the commons healthy and intact; create local commons to manage finite resources; expand the institutional vehicles for shared community ownership and cooperatives; and develop new Internet vehicles for sharing and collaboration. Fostering the commons requires not just a policy agenda, ultimately, but a larger cultural vision of community and personal fulfillment. It is time to revive this public-spirited American tradition and promote innovation in the stewardship of public resources.