

## *Open Minds ... from Creative Commons*

### **Episode 13: Hessel van Oorschot of Tribe of Noise & Free Music Archive**

[Music: "Day Bird" by Broke for Free]

**Ony:** Welcome to Open Minds from Creative Commons. I'm Ony Anukem, CC's Campaigns Manager. Our Open Minds podcast is a series of conversations with people working on the issues we are involved with and subjects we're excited about. Each episode we sit down with amazing guests from the worlds of open culture, open education, open science, open technology, and more. For our first episode of 2022, we're joined by Hessel van Oorschot, founder and "Chief of Noise" of the online music business Tribe of Noise, a music community that connects artists, fans, and professionals. Founded in 2008 in The Netherlands, its main objective is to create fair and sustainable business opportunities for talented artists. Tribe of Noise acquired the Free Music Archive in 2019, which we will hear more about later in the episode. Hessel shares his unconventional path to discovering his passion, his insights on the biggest opportunities for music licensing right now, how he got involved with the open movement and Creative Commons, and so much more. So, enough from me, let's hear from Hessel.

**Hessel:** Hi there, how are you?

**Ony:** I'm good. Thanks. How are you?

**Hessel:** Personally, I'm doing great, but it is a challenging time. Isn't it?

**Ony:** It is a challenging time indeed, but I am excited to be sitting down with you and I'm sure that you're going to bring some brightness to me, and the rest of the CC community through this conversation.

**Hessel:** Perfect. Let's hope I can live up to that expectation.

**Ony:** So just to get us started, I'd love to hear more about your journey into music licensing. If I'm correct, your background is actually in IT, and I'm interested in how you got from point A to where you currently are today.

**Hessel:** Ooh, how long is this interview? No, I'm just kidding. Let's keep it short. Well, actually it's even a little bit more niche than the IT. My proper background is in automotive engineering, and part of that was industrial automation. So my first real paid job was actually helping the automotive industry in their part of the digitalization of the business, locally in the Netherlands. Nothing fancy, but you know, paid the bills. But what I like quickly understood from the industry, and this is before you had Tesla and big thinkers who wanted to

revolutionize the industry. The industry was laid back, you had a couple of huge brands. They were there for the last 100 plus years, and nothing out of the ordinary happened there. So that was my first job, and what I quickly learned then is if I really want to be innovative and ahead of the curve, I should start my own business or should do something different. So from that moment onward, I started to develop myself, had a short career in IT, as you mentioned, worked for one of the largest IT companies in the world. Got a bit fed up with middle management, to be honest. And I was super young. So, I still had that idea that I could change the world or at least be part of that. And then, roughly 2000 started my first business, and that was actually helping other small, medium sized businesses or entrepreneurs, how to make the best out of the internet. So I didn't build websites or something, but I helped them to understand the business models on the internet. Helped them to transform from brick and mortar stores all the way up to the internet. Wrote some books about it. Did train the trainer sessions and helped tens of thousands in the end, over 200,000 small, medium sized businesses with books and all other kinds of things that actually helped them. Funny enough, I published some of those books that I wrote together with my wife. A couple of those books were actually published under Creative Commons. So actually all the way in 2005, 2004, 2005, I was able to make money while licensing my own intellectual property under a Creative Commons license. So that's your initial proof that Creative Commons works.

**Ony:** Thank you. Thank you. I have to say that I'm glad that you took the leap. You've definitely been part of changing the world, both in the CC sort of ecosphere and beyond. So you're co-founder and CEO of Tribe of Noise, and in 2019, Tribe of Noise acquired the Free Music Archive. For folks who aren't familiar with music licensing, could you explain them both and the role that you play within them?

**Hessel:** Sure. So from day one when we launched Tribe of Noise in 2008, we actually were not – well actually the year before we were asking ourselves the question: where can I find good quality music from up-and-coming bands or singer songwriters – real human beings, so not like an algorithm or something else, but how can we act, how do we get access to that kind of quality music, as quickly as possible, and licensed the music for some of our media projects? And with media projects that could be, of course, something silly, like a home recording, of your latest vacation. But in our case, we were doing a lot of videos for businesses. And we were in need of real music. So I popped that question to a couple of lawyers in 2008, who were also musicians. And they also taught music management at a university in the Netherlands, so they saw the whole thing. And I asked them, is there a place out there where I can find good quality music from musicians with a simple contract or licensing scheme underneath? And I do have money, so I want to pay them directly if they want to hand over some of these songs, or the license of the songs, so that I can use them for synchronization with my video content. They did a lot of research and they came back with all kinds of initiatives out there, but they came actually back with two, two results or conclusions, saying like, if that's what you want to set up, like a marketplace to connect content creators and people in need for that specific content—why don't you do it yourself? And the second thing they said was like, if you do put your money where your mouth is, and if you start a company like that, be aware that every single country around the world will have its own specific rules about, you know, copyright laws specifically for a country, or maybe there is a ministry of whatever who will have a specific opinion about how to license music. So make sure that if you want to go into that game internationally. That you work together with partners who understand that game on a global level. And that's actually where

Creative Commons came in. That reminded me of the books that we wrote under Creative Commons. One of the things I really love about the Creative Commons licenses is that you have translations per country. It's written in human readable text. It's a framework on top of somebody's copyright. So you're not saying like, you know, we disrespect your copyright. We're saying, like you know, there's a framework on top of the copyright, and the owner can decide within their own language with our own terms of service, how I as a licensor can use that content, super interesting. And of course, you almost have to tell that story every single year to every single country, to every single entity, because they think that Creative Commons is just, let's put, it's very black and white, that Creative Commons is just for the happy few that want to give their intellectual property away, which is totally a wrong perception of what Creative Commons is, but that's what a lot of people think, so you have to explain that. Your second part of the question: is Free Music Archive different from Tribe of Noise? I think the biggest difference between the two is the starting point. Free Music Archive was actually set up by - it was one of the oldest free format radio stations, maybe the oldest free format radio station in America, WFMU. And they used music, highly curated by people who just like to create music. And they published them on the website of WFMU, but they're also played and recorded some amazing music in the studios of the radio station, which means that a lot of the music that was actually played on the local radio stations and national radio stations actually were published afterwards under an open license or Creative Commons license and on the Free Music Archive. That's also where the archive part kicks in. It keeps an archive on the website. The other amazing thing that happened because so many talented curators had so much fun on Free Music Archive. It became the number one resource globally, if you type in the words free and music on Google. Which means that hundreds of thousands of folks every single day are visiting Free Music Archive and are searching, browsing, clicking, listening, downloading two to almost three terabytes for music files every single day. So that's you know, this amazing resource of independent music. Most of the works are like originals. So it's this great resource where a lot of people curate, find, download music. And I think the biggest struggle for them when it was still owned by WFMU - they didn't give the monetization of the total package of the Free Music Archive too much attention, which means that they had all the costs of hosting, streaming and maintaining, and there were IT people who had to rewrite code from time to time. There was a really wonderful community manager on Free Music Archive. People had to get paid. But, yeah. On the other hand, of course, you need some form of income or revenue streams so that you can keep it up and running. And unfortunately that was lacking, we heard that in 2018 already. And so we reached out, and together with Creative Commons, we reached out to the Free Music Archive. We said, how can we help? They said, you can give us money. I was like, yep. I understand. I understand that you asking for more money, but how can we help long-term? What can we actually do for the community for Free Music Archive for Creative Commons in the long-term? And that actually resulted in us offering them an amount of money to purchase and acquire Free Music Archive, but also the promise that we would take it to the next level. And unfortunately, somebody else offered a little bit more money. So in 2018 it was sold to not us, but to somebody else. Unfortunately for us, of course. But you know, I'm a good loser. So I made a phone call to the new owners of Free Music Archive. And I said, you know, congratulations, you bought something wonderful. We should make sure that this, you know, stays alive for the upcoming hundred years. And if you ever having second doubts about what you just acquired, or if you have any issues or whatever, my door's open, give us a call and let's see if we can work it out. And nine months later, I actually got that phone call from them to say, we don't understand what free music is. We don't understand

Creative Commons. Good enough. Are you still willing to, you know, purchase or acquire Free Music Archive and keep your promise? And we said yes, twice, and since 2019, that's what we did. So we acquired Free Music Archive, invested more money in Free Music Archive, rebuilt the complete backend so that it is future-proof for the upcoming 10 years, at least, and hopefully for more. And now we are having a lot of fun with initiating new ideas of making sure that Free Music Archive, Creative Commons Tribe of Noise artists, that somehow we align and make it and just make it happen for all of us.

**Ony:** There are some absolutely fascinating connections there. When you look back in hindsight, I'm sure that at the time the road didn't always seem like a clear path, but just hearing the retelling of that, there's just so many pieces that make sense and come together so nicely. And we'll talk about Free Music Archive and some of the work that you are doing as part of your promise to take it to the next level later on in the conversation, but I want to go into something that you touched on a bit in your last answer. I want to get your take on the perceived tensions between ownership and sharing. And now this is something that comes up in so many creative communities, but I think there can be attention with the music and sound industry on this note. I want to get your thoughts on how you see the application of free and open culture licenses impacting the music and sound industry.

**Hessel:** Absolutely. I think from day one when we announced we were going to launch a platform where the independent artists would get all control to make up their own mind and to say, this is what I want. I want to share this part of my repertoire for free. I want to share this part of my repertoire with people who are willing to pay me. And maybe with another part of the repertoire that I've created, I want to do a deal with a music label, for example, or a publisher. Since that announcement, and this is virtually of course, but I was stabbed in the back quite a few times, so I was super proud, when we opened the doors with Tribe of Noise in 2008, I was screaming from the roofs to say look at this wonderful opportunity. And it wasn't a new idea because. We saw these ideas arising in open source software communities. We saw these ideas with photography, but music was lagging behind, it was slow. And the whole music industry seemed to be a closed kind of environment, where only a few folks had their hands on the controllers, and nobody else had a clue how to access it, or how to make money, or how to influence it. So when we went to the music conferences and when people asked us for the newspaper to tell us more about Tribe of Noise, it instantly felt that we opened a door that should not have been opened. And people gave us that feeling that when you were not part of the traditional music industry, and with the traditional music industry, I mean that the composer would join a publisher, and the performing artist would join a music label, and all of them would get their money via a performing rights organization, or a collecting society. So that traditional system where all these entities are involved to make money or to broadcast your music, or to do your marketing, when we weren't part of that, I said hmm, let's see if we take out a few middlemen, if we can do it directly with Creative Commons licensing as a framework and help the independent artists directly. Yeah. It felt that I actually closed the door to the traditional music industry for good. Having said that, and fast forward to today, because this is a process now for 13 years that day in day out I've been telling this story and with a lot, with a lot of enthusiasm, because I still believe that this is the only way forward. I do see, for example, that slowly the law enforcers started to understand that transparency or good governance or more flexibility to the rights holders, you know, more power to the rights holders, you know, let them in, let them make their decisions. And if they want to give it away under an open license or if they want to share under an open

license, they should be able to do so, even if they are in a contract with a collecting society. The last six, seven years that's happening. We see performing rights organizations pick up the phone and start to call us, like, Hey, can you explain that story again about Creative Commons and how open licensing could contribute to the bigger ecosystem? We see big companies who are now saying to Creative Commons or open license content: Hey, this is actually a great fair remuneration model where some of the music might be featured free of charge under non-commercial conditions, but if we pay a little bit of money or have another deal with the rights holder, we can use it commercially for purpose A or B or C. So that, that whole palette of options that is now opening up to rights holders to say per song per, per genre, per opportunity to say this is my intention. You can use this song without calling me, but you can't use it non commercially. If you want to use it commercially, these are my conditions. If that's okay with you, let's go for it. If it's not okay for you, you know, just move on. That is so powerful.

**Ony:** It's so incredible to see the pendulum swinging and that recognition starting to come in, as well as relationships with the traditional music industry, who clearly at first were very resistant. It, yeah, it really just speaks to the fact that once you have your story straight and you're able to really communicate that consistently, and you're doing great work, that eventually, you know, people will start to take note and they really have. It's just great to see the work that you've been able to do. And speaking of the music industry sort of lagging behind, I'm going to go way back and speak about the public domain a bit. So in January, 2022, on public domain day, thousands of public domain sound recordings from the U S will be available for the first time. And I just want to get your thoughts on the impact you foresee this having for, you know, music and sound creators.

**Hessel:** Yeah well, public domain. If you look at copyright and public domain, there are people, especially in the Creative Commons scene, who say actually public domain is the standard, and getting a copyright for 60 or 70 or in some cases a hundred year is the exception. I like that approach because it opens up the discussion to say what is copyright in the first place, or why do we need copyright for 50 years or 70 years or more? And we do see more examples nowadays, look at these COVID vaccines, and you know, medication in general, where people wave their intellectual property or those kinds of things, just to make sure that we can develop faster and that people can build upon other people's technology and knowledge, super useful. Going back to public domain. What we said a couple of years ago, and we've seen other Creative Commons' fans doing the same thing, let's invite today's musicians to take a composition from the 1920s, or maybe from the 18 hundreds or whatever revamp the whole thing. And record a new version, for your audience. And, so we've done that. That was a project called Re-rec from rerecording, super fun to do. And what we've done there is we actually, at the end, we hand picked, I think it was like between six and 10 winners who sent in their works from old recordings or old compositions. And we actually pressed them as final again, so a compilation of these songs, all the vinyl that we had beautiful artwork for the cover. And we send off boxes with those final records to the winners for them to share. And there was also for us, like for us, a small contribution, but also a way to just create awareness that everybody, every single day, is building upon somebody else's work or somebody else's idea. And that is super powerful, but that's also why there is no such thing as original music. Otherwise, you know, we would have to take a baby, shoot the baby to the moon, and then wait for music to come back after 20 or 30 years. And then you could say like, ah, that was proper original music, you know, never influenced by whatever was on

the radio, TikTok, or YouTube. So yeah, I have a very strong opinion that public domain is the standard.

**Ony:** I hope that next year we'll see more remixes and reversioned versions of, I won't use original music because, like you said, there's no such thing, but of the sound items that are coming out of the public domain in 2022. And moving things on, we've spoken about the past now. Let's bring things back to the present and the future. What do you see as some of the biggest opportunities for music licensing and music creators right now and in the long term?

**Hessel:** For now, it's obvious. We have 53,000 individual musicians registered on Free Music Archive and Tribe of Noise. Those 53,000 musicians or members. They live across the planet, I think the last time we counted, we had something like 193 nationalities, if that's even possible. What everybody tried to do in the last 10 years was to get signed to a record label and hopefully get an advance or with a publishing deal. And then there was a period where they said if your music is on Apple Music or iTunes and people start to download the music, every single download, you will get a fair share of that \$1 that is set as the download price. That didn't really work for many artists. Then we went into streaming, and now I think most of the musicians start to understand that if you're not in the number one playlist of your genre, or maybe the number ten playlist of your genre, that getting enough plays that actually translates into royalties, that actually ends up on your bank account that actually pays for your bills, and your mortgage is almost non-existent, like it happens to a few and they make a ridiculous amount of money, and then there's a huge gap. And then you have the 99.99, nine, 9% of people in the long tail who don't make enough. Just with royalties or any other kind of remuneration they get from the streaming services. So I think this is a really great moment to have discussions with all of them and to say what we can offer you is opportunities where. Maybe five of your tracks might find a second life in the direction of a synchronization for video projects, like music in a YouTube channel or a tick-tock or documentary or film. Maybe we can find opportunities for you to have your music in background music services for businesses where there's a payment per month per stream. And then just go for not just one, but for 10 or maybe 20 monetization models, and test them per artist, and make sure that they have a dashboard, make sure that they can switch on and off all these monetization models. And just try to figure out per artist. How can I share my music free of charge? How can I share my music in a way it's being monetized, and okay? And, I think that's lacking in most of those models. How can I revoke those rights from time to time, if I have just monitored the music, floating over the internet and attracting new eyeballs and making a few bucks? And if it's not good enough for you for that specific part of your repertoire, it will get logged so that you can revoke the rights. Something else. I think that's for me as a super-clear path, that we give back power to the artist and control, that we make sure that there is a dashboard with simple and in plain English or any other language, an explanation of what you can do with your music and how you can license your music, and then offer them those opportunities with little switches next to them. To say like, tested for a couple of months. If it works. If it doesn't work, it doesn't work. Try something else. That will be my ideal future.

**Ony:** So on the subject of Web Monetization – in 2020, the Free Music Archive became a Grant for the Web awardee for a project that is aimed at integrating web monetization into the Free Music Archive platform, and also trying to drive discussions about web monetization to

the music creator community and users. I'd love to know more about this, the work that you've done so far, and ongoing plans.

**Hessel:** Web monetization and Grant for the Web combined with how we perceive Creative Commons, and how we want to push Creative Commons forward, I think, it sounds a bit cheesy to say marriage in heaven, but it does work. And I will tell you why, with Free Music Archive, as I mentioned earlier, what we can promise is insights into the amount of traffic that is generated with people going to Free Music Archive, downloading music, playing with music, reusing and building upon music. That's massive. That's big. So that data of course is valuable for any new form of monetization online. So what we've been doing with the grant is a lot of research to ask all these people coming in with free music, archive, and specific questions about how do you perceive free music. If you are behind your computer and you type in the words, free music, and you end up on Free Music Archive, you see all that creative commons content and public domain called. You know, on your screen out there, what do you think? Do you think, oh, I can just, you know, download whatever I want and use it for any purpose or even commercially, or I can just sell it as mine, or I can just claim ownership, or do you perceive free as something that you can download and enjoy the music and listen to the music, and maybe share the music with friends? But in the back of your mind, you might understand that if you are going to make money by monetizing the content, that you have to double-check the license, for instance. We had a group in the end of four and a half thousand people that we could like intensively interview.

**Ony:** That's incredible. That's really incredible. What does better sharing for a brighter future mean to you in the context of music licensing?

**Hessel:** This is of course, because I've been following and participating with Creative Commons, not from the beginning, so not the whole time,

**Ony:** Almost.

**Hessel:** But we're getting close. My take on this is that we are on a journey forward together, with a lot of people, enthusiastic about Creative Commons, which is great. And I think together we can tackle a couple of issues that need to be resolved to actually enjoy sharing even more. What I mean with that is, and this is basically the essence where it all comes down all the way back to the copyright owner. I would love, and we are actually already working on this, but to get my hands dirty on a basic, super easy wizard that will allow a content owner within 20 seconds, maybe 30 seconds max, to say, I own this piece of content. I am willing to share this creativity with the world under my conditions. I want to use an open license like Creative Commons, and I want to register my intentions publicly, so that if people take my contents with a click of my mouse, or with a link in the subscription, the receiving party can find all the details about my ownership and rest assure that it's well documented that there is a license, that it is free to use, and that people don't end up in any copyright infringement if they want to build upon this open work. So building that wizard, having that wizard in place. To allow people from their mobile phones, from their desktops, from wherever they are in the, in the planet to say I just created something, but before I publish this online with a Creative Commons license, I just want to make sure that people

hundred percent understand that I own this content and that my intention is to share. If we can make that happen in 2022, I will be super proud, and hopefully I can contribute.

**Ony:** Thank you so much Hessel, that was a great response. And I think you touched on some points that many in the space have been thinking about, and I'm looking forward to seeing more developments on that front. Thank you for taking the time out to speak to us. This has been a great episode.

**Hessel:** It's so nice to not just share this information, but I'm looking forward to listening to the other episodes as well, and to see where the Creative Commons community and all the people in this space can actually help each other with all the knowledge and all the projects that they have been working on in the last couple of years, so I'm really looking forward to the other episodes.