

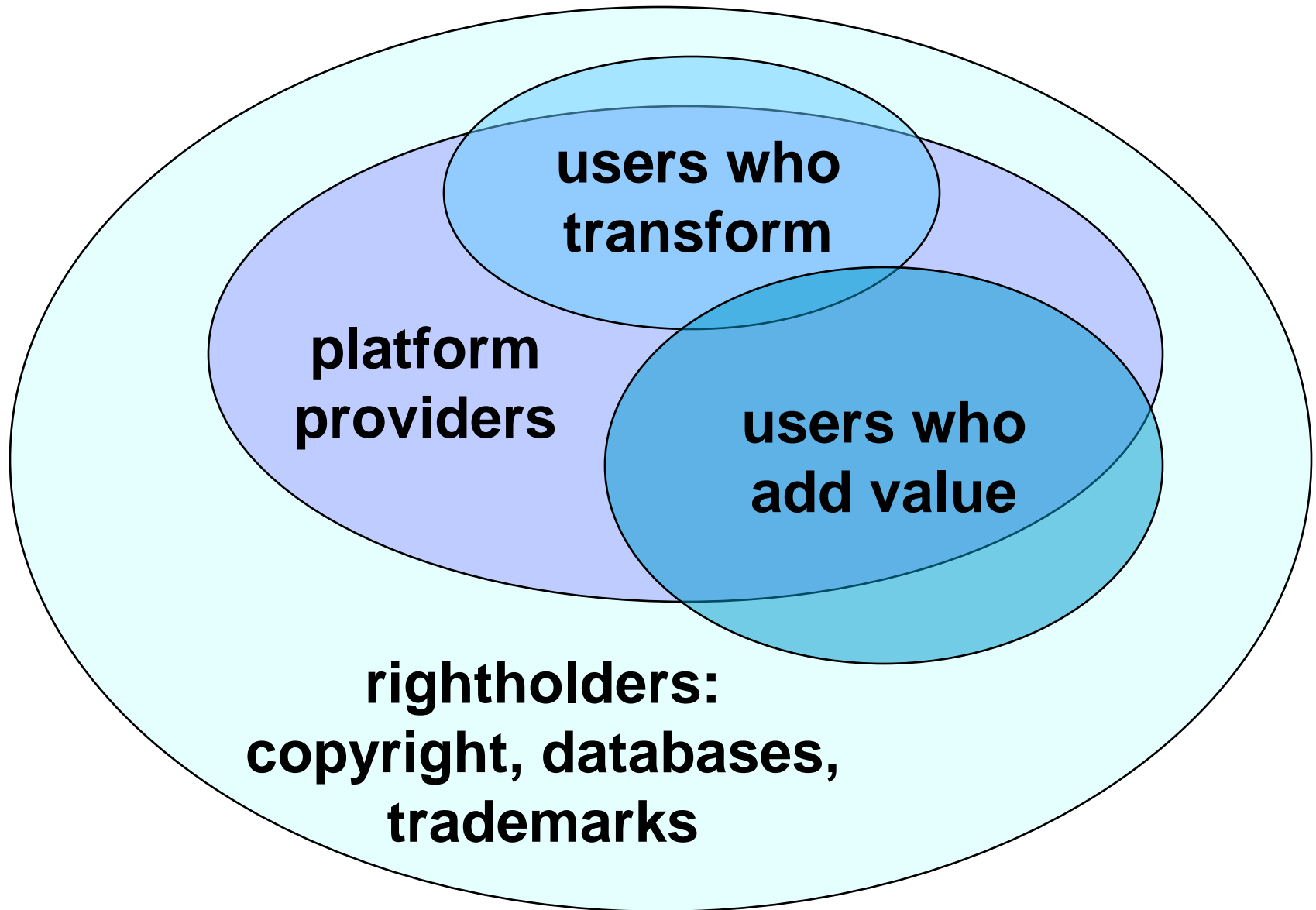
**OECD – Industry Canada
Technology Foresight Forum**

Intellectual Property Rights and the Participative Web



**Prof. Dr. Martin Senftleben
VU University Amsterdam
Ottawa, October 3, 2007**

The participative web



Transformative use – infringement?

- factors to be considered
 - freedom of expression
 - intergenerational equity among creators
 - promising creative potential
- traditional solutions
 - limitations for quotation, parody, criticism, review
- recommendation

Limitations for transformative use should be

 - broadened and/or
 - diversified.

Value-added products – infringement?

- factors to be considered
 - engine of competition and innovation
 - dissemination of information
 - distribution of markets, risk of substitution
- traditional solutions
 - limitations for press summaries, library services
- recommendation

Limitations for value-added products only if

 - they do not erode the primary market;
 - equitable remuneration is paid.

Platform providers – liability?

- factors to be considered
 - indirect beneficiaries of limitations
 - connection with value-added products
 - heavy burden of general monitoring
- traditional solutions
 - notice and take down procedures
- recommendation

Notice and take down procedures only if

 - the platform plays a rather passive role;
 - appropriate precautions are taken.

Horizontal issues

- Technological protection measures
 - enable new markets;
 - facilitate licensing;
 - but: Limitations should prevail.
- Legal certainty should be enhanced by
 - encouraging contractual solutions;
 - reducing the impact of abstract control mechanisms (three-step test) on limitations.

The End.



Thank you!

contact: m.senftleben@rechten.vu.nl