

Copyright in an academic library context: Part 2

Blog post by Kyle Rother
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Understanding the two smaller c's

It would be unfair (and largely incorrect) to say that the concept of a **knowledge 'commons'** is a product of the information age – sharing of and access to information and knowledge have always been foundational principles in organisations like libraries and universities. However, the rise of the internet has certainly provided impetus to the idea, and brought the commons to the people. Access to information need no longer be mediated by institutions or academics. Anyone with access to the internet has a means to engage with and reiterate information from its source, and to generate and disseminate new information and content of their own.

In the **context of copyright**, this easy access to and spread of information is bad news – at least for those, like publishers, who make access to information their business. As access becomes easier, control becomes more difficult, and commercial information producers/providers have had to come up with new ways of enforcing their control over content, such as **Digital Rights Management (DRM)**. Copyright has been (mis)appropriated to serve in such a rapidly developing and highly changeable climate, with often contentious results.

In contrast – and perhaps even in response – to these attempts to continue to mediate and control access to information in the digital environment, some advocate a fundamental shift in the **knowledge economy** away from such market forces, and invert the problem stated above: in the context of easy access to and spread of information, copyright is bad news. Once again, this is slightly unfair (perhaps even incorrect); however, the system has flaws, and is fundamentally geared towards an outdated mode of delivery. In the current climate of immediate access to resources, pragmatism is king, and a basically static legislative system like copyright is ill equipped to serve the needs of both information producers and information consumers, creators and users.

In response to the poor applicability of copyright to the changing knowledge economy, a number of alternatives or supplements to copyright have been devised. Some of the most important and widely used are alternative licensing tools, and of these the one which applies most specifically to the university library context is **Creative Commons**.

Creative Commons is a non-profit organisation started with the intention of expanding the body of copyright works which are available for sharing and re-use, and to encourage, promote, and facilitate that sharing and re-use by offering a suite of alternative licenses which can be applied freely, broadly and simply. Technically when one uses the term 'Creative Commons', one refers to this organisation, and to be precise, the topic of this conversation is the licenses that they have devised.

A common misconception about Creative Commons (CC) is that it is an alternative to copyright, and that by using a CC license one is relinquishing control over their work. In fact, completely the opposite is true. Creative Commons licenses require copyright to function, and by using a CC license one is actually providing more control, not only for oneself but also for the user.

Think of a pizza: copyright is the base, and the CC licenses are the toppings. Without the base, all you have is a puddle of melted cheese with some sausage stuck in it, which sounds delicious, but it's going to be pretty tricky to get into your face. Likewise, without toppings, the pizza is just a dry base, with maybe a bit of tomato sauce, which is not going to be very appetizing. So the two go hand-in-hand: one supporting the function of the other.

Creative commons licenses essentially articulate the exceptions which are already present in copyright, and allow the copyright holder or creator to enter into a license agreement directly with the user. They come in **six flavours**, different combinations of the four basic licensing elements: Attribution (BY), ShareAlike (SA), NoDerivatives (ND), and NonCommercial (NC). Common to all, and roughly analogous to the moral rights, is BY. ACC-BY license is the most free, simply requiring that the creator of the work be acknowledged, and permitting all other lawful uses of the work. Closely related, and next in order of openness is the CC-BY-SA license, which likewise permits all uses of a work as long as the resulting work is released under the same license. These two are known as the 'free culture' licenses, as they are the most open and permissive, allowing free use of copyright work.

Next in order of permissiveness is CC-BY-ND, which allows for use and re-use of a work, as long as it is kept intact and not altered in any way. The last element, and lowest in order of permissiveness is NC, which prohibits any commercial use of a work. This element is somewhat contentious, as it potentially excludes a large amount of use of a work which is commercial, but not necessarily for profit. Many people therefore advocate **against** the use of the CC-BY-NC license.

The ND element is exclusive from the SA element, as only a 'derivative' work would require a distinction that it should be 'shared-alike'. Thus, these two elements can't be combined in one license. So the last two licenses by combination are CC-BY-SA-NC and CC-BY-ND-NC. These two are the most restrictive, and basically analogous to fair dealing within copyright, with the exception that they do not place any limit on the kinds of person who may use a work, or on the amount of a work which may be used.

Creative Commons licenses function as user licenses, but instead of being mediated by a third party, creators can apply licenses to works and release them for use autonomously, thereby retaining their copyright without having to rely on a publisher or distributor. They also protect the user and simplify re-use by explicitly stating the terms under which a copyright work may be used. Thus, instead of having to ask permission from the copyright holder to adapt a work, a user seeing, for instance, a CC-BY-SA license will know up-front that they are allowed to make an adaptation, as long as they observe the licensor's moral right to be acknowledged as the creator of the original work, and they share their adaptation under the same conditions.

Copyright and licensing are two very important elements to understand in the modern library and academic environment, and their significance is only going to increase. An understanding of the context from which they each arise is an important step in demystifying what might seem like a very confusing issue. Next time we'll take a closer look at the concept of the 'commons' and introduce the 'copyleft' movement.

by Kyle Rother
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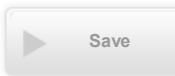

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