

A New Common Purpose

Recent press coverage has highlighted the argument that information collected by public sector bodies should be made freely available to stimulate a vibrant knowledge economy. The Creative Commons (CC) licensing system is a tool for pursuing that aim, and is a response to the all rights reserved tradition associated with copyright in the form of a range of some rights reserved licences. The system offers several standard licences enabling authors or rights holders to select which rights they wish to reserve and which they wish to make available to others. All CC licences enable the licensor to assert its copyright and licence a copyright work subject to a core set of safeguards.

In addition a number of optional restrictions can be incorporated: permission for the work to be used only for non-commercial purposes; a restriction on the creation of derivative works; and permission to produce new derivative works based on the licensed work provided they are published under a CC licence.

The result is a short, fairly readable licence linked to a commons deed, which summarises in very straightforward terms the rights granted. Many trustees will want to use CC licences to further charitable objects by encouraging reuse of material and the wider dissemination of publications and other creative material. They will generally have an obligation to make widely available material developed by the organisation in pursuit of its charitable objects. That obligation should be balanced against the duty to safeguard the intellectual property assets of the organisation, which may be of considerable value.

In adopting the licences, charities should consider whether it remains necessary to ensure that the charity actually owns the copyright in the licensed material. This may involve reviewing the policies and procedures of the organisation and, in particular, ensuring that appropriate contracts exist with self-employed staff, volunteers and other individuals who are not employees. It may also be necessary to obtain assignments of copyright where the ownership of the copyright is unclear.

While there is a strong motivation for charities to make resources widely available for reuse, there may be a loss of income. It is important that trustees make decisions on a principled basis with reference to the charity's objects.

The CC licence provide for irrevocable, world-wide licences. Charities should be aware that this may conflict with some funding agreements.

The CC organisation is considering the inclusion of a no endorsement clause to prevent the reuse of materials to promote a particular political, charitable or other campaigning purpose. Meanwhile, charities must bear in mind that materials created by them to pursue their charitable objects might be reused for different and potentially inconsistent purposes. This might include the reuse by the BNP of an image created by a charity with the object of promoting racial harmony.

While there are difficulties with the system, they are relatively minor and greatly outweighed by the advantages which include standardisation: reducing the cost and effort involved in relation to low value publications; harmonisation of standard licensing types: encouraging the acceptance of 'some rights reserved' licences; and facilitation of collaborative projects involving collective or derivative works by ensuring that many of the component parts of the work are licensed under identical conditions.

Where particular clauses of the licence present difficulties, charities may wish to consider developing a derivative licence based on CC licences. This is possible since the CC licences are themselves made available under a CC licence. However, charities will wish to avoid a situation where there is such a diverse range of derivative licences that the central benefits of the CC system are undermined because it proves impossible to generate broad awareness of the key licence terms.

It is to be hoped that CC licences will facilitate the sharing of knowledge. It also offers the opportunity to maximise the benefit achieved by public money within the sector and promote a culture of openness and freedom of information.

The Common Information Environment and Creative Commons can be read at www.intrallect.com/cie-study

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