

Creating the Perfect Recipe: Creative Commons Cookbook

Title slide

Welcome to this latest Wednesday webinar on Creative Commons licences. These are something which a lot of people will have heard of but they might not be sure exactly what they are and how they're used. As with all things copyright they're much simpler than they appear to be. The key is to think of the licences like instructions in a cookbook – you can put anything together as long as you start with the right ingredients. You might notice some foodie themes as we go through this webinar so you might want to grab some snacks!

Topics

In this webinar we're going to introduce the licences, talk a little bit about their history, break them down into their component parts and think how they can be used both by those who create content and those who want to use it.

Copyright primer

The first (and perhaps most crucial) ingredient in our cookbook is a basic understanding of copyright. Copyright and Creative Commons are meant to work together rather than work against each other so when talking about one we need to make sure we understand the other.

Copyright conditions

Copyright is an automatic legal right which is part of a larger suite of Intellectual Property Rights. These rights and laws govern how the outputs of a creator such as a journal article, book or painting can be used by others. Copyright law exists for a number of reasons:

- It offers an incentive to creators to encourage them to produce new works by giving them the chance to gain both money and a reputation from their work
- The laws also offer the creators a level of protection by helping to ensure that others don't claim credit for work that they have produced

Copyright is automatically granted once an original work meeting the following criteria has been produced in a fixed form, for example typing up a book chapter. Copyright is divided into two main areas – economic and moral rights and it's important to understand the difference between these in relation to Creative Commons.

Economic rights are simply the rights to make money from a work by producing copies or renting it out, creating a new version or adaptation or showing a work to the public. These rights belong to the original creator unless they are sold or given away. In contrast the moral rights always stay with the creator and are designed to protect their reputation and give them the credit that they're due for producing the work in the first place.

Although copyright law is designed to prevent certain actions, it is as much about helping to advance knowledge as anything else. It aims to promote the use of different materials in a lawful way that helps to protect the rights of content creators but still allows people to build on this content. People often think that copyright is all about what you can do wrong but this isn't the case - and this is where Creative Commons fits in.

What is Creative Commons?

So, now that we all hopefully understand copyright a bit more what exactly do we mean when we talk about Creative Commons?

Creative Commons licences

Creative Commons licences are designed to complement the existing copyright laws rather than override them. Copyright is a historic protection which was designed in a world where knowledge was shared in a certain way - usually by printing it and selling it or loaning it out through a library. As with everything else, as technology developed so has the way we share information and it's become a lot easier for creators of content to share their work online. This is great but it often results in a conflict with copyright restrictions as once something is online it can be easily shared and it's easy to lose track of who it belongs to or what the copyright permissions are. The safest thing to do in these circumstances is to assume that it is under copyright and therefore people can't use it but in the real world this doesn't stop people which results in illegal use. On the flip side of this you have people who would be happy with their content being used but people are overly cautious about using something when they don't know that they can. In a world where we are trying to promote and develop our collective knowledge there must be a better way?

History of Creative Commons

The Creative Commons organisation was created to help address these tensions and as a result of other copyright developments. In 1998 the Copyright Term Extension Act extended the term of copyright for every work in the US by an extra fifty years so that it was brought into line with other countries where the default term of copyright in a work is the lifetime of the creator plus seventy years. After this the work would pass into the public domain and people would be able to use it. Lawrence Lessig, a professor of law at Stanford University in the US, thought that this was unconstitutional as it meant that works were kept out of the public domain for longer. He argued that this actually stifled the very creativity that copyright was meant to help promote.

The resulting court case failed but it did lead to the creation of both the Creative Commons organisation and the licences themselves. The licences were launched in 2002 as a way for creators to specify how they want their work to be used in a simple and easy to understand way that is consistent with copyright law. Attaching a Creative Commons licence means that the creator retains the rights to their work but allows them to clearly outline to others how they would like it used. In theory, this simplifies the process of building on existing knowledge and creating new. The licences themselves are regularly updated and the latest iteration (version 4.0) was launched in 2013.

At this point it's important to reiterate that the licences sit alongside copyright law and copyright exceptions like using materials for educational purposes. They are simply designed to work with the existing rules to make things easier to understand.

Anatomy of a Creative Commons licence

Getting back to our cookbook analogy, you need to know about the ingredients you will be using to create your recipe. So let's take a closer look at the elements of a Creative Commons licence.

Layers

Each licence is made up of three layers - a little bit like a cake. At the base you have the human readable, plain language version of the licence - the bit which makes it easy to understand. This is known as the common deed and is probably the part that most people are familiar with.

Next there is the legal code. This is the legally enforceable part of the licence which can be used in court if necessary. A lot of people assume that because these licences can be so easily accessed online that they don't actually mean anything but they are actually legally enforceable. Of course, the idea of them is to make sure things don't get that far but on the odd occasion that they have these licences can be relied on as a defence.

The final layer of the cake is the machine readable layer which is aimed at computer software and is easy for websites, apps and search engines to understand – something which helps them to index openly licenced content so that those looking for it can find it..

Licence elements

What about the individual elements of a licence – the different ingredients that make up each one? You have probably seen at least some of the symbol on the screen even if you're not sure what they all mean. The six main Creative Commons licences are designed to be completely customisable according to which of the four elements on the screen you include:

- Each licence must acknowledge the creator of the work using the attribution element. This is only removed if the work is placed in the public domain with a CC0 licence or the creator waives their right to attribution.
- The no-derivatives element specifies that there can be no public changes made to the original work, including adaptations and remixes. This element is part of the two of the main licences.

- If the non-commercial element is included then only the original creator is allowed to make money from their work. Anyone who uses the original as the basis of something new can't sell it or otherwise use it for commercial purposes like putting an image on a t-shirt. Non-commercial is part of two of the main licences.
- The final element is share-alike. This specifies that any new creations made from existing materials must be shared under the same licence as the original work, so for example if the original work is under a non-commercial licence the new one must be too.

Copyright burger

The result is a licence that's been made to order – a little bit like a burger at your favourite fast food restaurant. Each one is made up of the range of ingredients that the restaurant stocks but these can be combined in different ways according to what the customer orders. The only thing that each one has to include is some type of burger patty – the CC-BY element in this analogy but a variety of different toppings can be added. If they want to make sure the work isn't used commercially they can add the cheese – or the non-commercial element – and then top it off with bacon – the share-alike element – to make sure that anyone adapting their work shares the new creation under the same license. The result is a Creative Commons license which can be applied to the work and outlines exactly what that creator wants others to do with that work. Different works by the same creator can be licenced in different ways depending on how they want it shared and the same is often true of different works from the same publisher.

Creative Commons licences

There are six main Creative Commons licences excluding CC0 which is sometimes known as putting works in the public domain. This is something which happens after a certain period of time when anyone is free to use the work as it is not restricted by copyright but creators can also attach a CC0 licence to material which makes it available straight away.

Although the licences on the screen are visually quite similar you'll see that each one is made up of different elements. They are arranged on the screen from least to most restrictive:

- Attribution – those using works are free to distribute, remix and build upon the original work as long as they credit the author of the original creation.
- Attribution ShareAlike – people are able to remix or build upon a work and use it commercially if they want to, as long as they credit the original creator and share the work they create under the same licence as the original.
- Attribution Non-Commercial – again, people can adapt and remix a work but they can't do so for commercial gain.
- Attribution NoDerivatives – the new work can be shared both commercially and non-commercially as long as the work is unchanged and the original author is credited. It's worth remembering that (somewhat confusingly) people can change a work under this licence for their own private use but they're not allowed to share it in any way.

- Attribution Non-Commercial ShareAlike – under this licence work can be remixed and built upon non-commercially as long as the original creator is given credit and the new work is licensed under identical terms to the original.
- Attribution Non-Commercial NoDerivatives – the most restrictive of the open licences, this specifies that works can be downloaded and shared as long as they are not changed in any way, not used commercially and the original creator is given credit.

Unfortunately the choice of licence is not always up to the creator. Different research funders and different publishers may mandate that outputs they are involved with have a certain open licence attached and any creators should check the conditions of their funder or publisher carefully to make sure there isn't a conflict.

Using Creative Commons licences

When any recipe is complete it's time to present the finished product to the wider world so that they can sample the new creation. But how do creators actually use Creative Commons licences? In this next section we're going to look at how you go about licencing work for others to use and how you as a user can find and make use of openly licenced content.

How to licence work

Although words like 'licensing' and 'copyright' make people think they're dealing with something complex, in practice it's easy to license work under Creative Commons using three simple steps.

1. The Creative Commons website has a handy licence selector tool which will talk anyone wanting to use a license through the process of choosing the one which is suitable for their needs. Once this is done the website lets you download a machine readable code, licencing statements and images to add to any materials so that the correct licence is displayed. As long as a Creative Commons licence is attached in some way then the work is protected. Remember that CC licences compliment copyright law and so they will be valid until the copyright in the work expires.
2. Step two is to add a statement to the work explaining that it is openly licenced, which licence is attached and the details of the creator. The wording that Creative Commons themselves recommends is on the screen – it's important to mention the type of licence you are attaching and the version number as the rules vary slightly for each one. It's best to use the latest version of the licence you want as this obviously has the most up to date rules and it goes without saying that if you want to be credited then you need to include your name!
3. The final step is something which a lot of people don't consider when assigning an open licence but it's important to think about how open you are really making the work? Adding an open licence is a great step this isn't of much use if there are other blocks to using a work. Creators should consider using open formats rather than proprietary software so that more people can access it and make sure they don't upload it to a platform which uses some type of digital rights management which can stop people from actually building on the work.

Once a Creative Commons licence has been attached it can't be revoked but there are some options open to creators if they decide they're not happy. They can take the work in question offline and/or re-upload it with a different licence but they need to remember that there is no such thing as removing something completely from the internet. If someone has already found the work under its original licence then they're not breaking any rules to use it under that original licence – no matter what the creator has decided later. For example, if the non-commercial element was added later and someone has found it under the original licence which allowed commercial use there is not much the creator can do about it!

Things to think about

Permanence is not the only consideration creators need to think about when licencing their work:

- Some types of format are not appropriate for Creative Commons licences. The most common example of this is software where there are other, more specific open licences which can be applied.
- Is the work copyrightable in the first place? Creative Commons licences can't be applied to any material that isn't already covered by copyright such as works already in the public domain.
- Does the person applying the licence actually have the rights to do this? Do they own the copyright to the material they want to licence? You can't apply open licences to material you don't own the rights to or where the rights belong to someone else.
- Creators need to think carefully about which parts of a larger work they are applying a licence to. If a work takes existing text belonging to someone else and adds new images then the licence can only be applied to the new elements and any statement needs to make this clear. We'll cover this in more detail when we talk about using CC content later in the webinar.

Anatomy of a Creative Commons licence

We've thought about the chef in cookbook analogy but what about the person sampling the finished dish? How to potential users go about finding and using Creative Commons licenced content?

A quick online search will bring up a huge range of open content but even when using filters it pays to be cautious and always double-check the licence on the individual work. There are dedicated search engines and sites which only offer open content such as the Creative Commons search tool and Wikimedia Commons which you might want to use or direct people to.

Once you've found the material it's important that it's properly attributed. There are many ways of citing material and there might be local conventions but one of the best is the TASL method – T.A.S.L.: title, author, source and licence. For example, the attribution for this webinar would be: Creating the Perfect Recipe: The Creative Commons Cookbook by Claire Sewell, Office of Scholarly Communication, Cambridge is licenced under a CC-BY 4.0 licence. This includes all of the relevant information so that others can locate and correctly attribute the work if needed.

You could use material that is registered as CC0. This material is not under a licence but is instead in the public domain. This means that the material is free to use and build upon without attribution (although if you know the details of the creator then this is still good practice).

Finally, it is a good idea to remember that Creative Commons licences are designed as a way to compliment copyright, not replace it. If your intended use of materials falls under any existing copyright exceptions or limitations then this overrides the CC licence.

TV dinners and smoothies

One of the major sources of confusion around using CC licenced content comes when someone is collecting it together or remixing it to create something new – something which is fundamental to openly licencing material. A collection and a remix are two different things and this foodie example helps to illustrate a key difference:

- In a collection, separately licenced works can be gathered together – for example a collection of openly licenced poetry can be brought together to create a new resource. Each work is separately licenced and even when brought together each piece retains its own individual identity. Like the TV dinner on the left, the meat doesn't mix with the peas and the potato doesn't touch the gravy. The licence of each individual element remains and these have to be clearly indicated. Although the collection as a whole might be subject to copyright this is only in any new contributions which have been made in collecting it together such as the arrangement of works or any additional content like an introduction.
- By contrast a remix is more like the fruit smoothie on the right. Individual works with their own open licence are brought together and then mixed up to create something new – like the fruit in your breakfast drink. It's impossible to tell where one ingredient ends and another begins so creating a remix usually results in a work which is original enough to qualify for copyright protection in its own right but unfortunately it's not always clear cut. Another complication is the rules around which licences are compatible. There is a handy table available on the Creative Commons website and I recommend looking at that to make sure that the materials you want to use can in fact be remixed.

Protecting creator rights

It would be great if everyone followed the rules in the recipe but unfortunately sometimes things go wrong and you end up with the dreaded soggy bottom! Many content creators who would like to use open licencing are worried about how it will impact the use of their work and how they can ensure that people observe the rules they've set out via a certain licence. Unfortunately it's just a fact of sharing that they won't be able to protect it at all times – once something is online there is only so much that can be done. However, there are some reassurances that we can offer people who are worried.

Creators can choose not to be associated with their materials or object to any use of their materials which they strongly disagree with. Although attribution is a fundamental ingredient in all CC licences, creators can completely waive their right to attribution when releasing it publically. In addition, if they don't like how their creation has been used or adapted they can ask to have their name removed from that version. The underlying text of the Attribution element also contains a clause which stops the name of the original creator being used to endorse or support the views expressed in the new work. If this happens an official objection can be raised citing the legal clause within each licence.

This is a particularly important thing to explain to researchers in the arts and humanities who have raised specific concerns around the potential for their words to be twisted if their work is openly licenced. Creative Commons licences are legal documents which can (and have been) used to protect the rights of content creators. They contain specific protections which help to secure these rights at the same time as helping content creators to promote the use of their outputs more widely.

On the flip side of this creators need to remember that as long as licensees are not violating the CC licence in any way, they have a limited amount of control once something has been published. This is one of the reasons why knowing about the different licences and spending time choosing the right one is so important for those producing content. Anyone using Creative Commons licences, either as a licensor or a licensee, should remember that these are legally enforceable licences which will stand in a court defence. Broadly speaking the open community follows the rules but there have been a few cases involving Creative Commons licensed material which have gone to court and the legitimacy of the licences have never been questioned. Those who violate the licence have their rights terminated, although under the most recent version they have up to thirty days to correct it which takes care of most genuine mistakes.

Too many cooks?

Hopefully the result of the Creative Commons cookbook is a simple and effective way to promote the sharing and reuse of the world's knowledge. They offer creators the chance to specify what they will allow others to do with their work whilst protecting their rights and at the same time those looking to use material have an easy way to understand how they can use what they find. Like all the best recipes let's hope the cookbook is used for years to come. The more people who use Creative Commons licences, the more material will be available and who knows where this knowledge could lead?