

COMMON INFORMATION ENVIRONMENT (CIE)

Implications of project, service and institutional deployment of Creative Commons licences in the United Kingdom

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1 Overview

This report is to highlight the key findings to date from the CIE funded project investigating the applicability of Creative Commons (see Appendix A) to the UK public sector. The project started in April 2005 and the final report is due to be completed by 14th September. The findings are based on research, three rights holders' workshops and interviews (see Appendix C for more details). A users' workshop and a review workshop will be held prior to the completion of the final report.

1.1 Tentative Conclusions

Based on the current research and analysis of the CIE organisations and Creative Commons (CC) licences:-

- 1 There is no reason to suggest that CC could not be used by public sector organisations in the UK
- 2 Not all the outputs from public sector organisations could be made available under CC
- 3 The use of CC would require significant changes to current organisational practice

1.2 Recommendations

1.2.1 General

- CIE organisations need to make an organisational decision about whether CC can be used to make resources available. (This could be based on the issues discussed in section 1.4)
- There is a need for public sector organisations to have a less restrictive access to resources. In particular access should only be restricted when the resources have clear commercial potential or are sensitive to third party materials.
- CIE organisations need to produce guidelines to address the practical issues raised in Appendix B.
- Pilot studies should be used to investigate whether the administration involved in using CC licences would be more expensive than not using them (e.g. would cost of checking resources and adding CC be greater than the cost of responding to requests for information).
- Organisational awareness of CC should be increased through workshops and briefing papers.

1.2.2 If CC is to be used by an organisation

- CIE organisations need to decide on whether to use CC retrospectively or only for new resources.

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- CIE organisations should produce clear guidelines to their staff about: what can be made available under CC and what can not; practical advice about publishing under CC.
- When funding projects, public sector bodies should request that the outputs are made available under CC as a condition of funding unless it is necessary to be more restrictive.
- When obtaining permission to use third party materials, the organisation should aim to obtain an agreement to publish under CC.

1.3 Findings from workshops

1.3.1 Motivation

The key drivers within CIE organisations for allowing access to resources are: social inclusion, Freedom of Information, Open Access movements. The barriers are: expectation of commercial revenue, loss of control, and required cultural change.

1.3.2 What resources can and can not be made available under CC?

From the rights holders' workshops, 26 resources were analysed in detail. It was thought that 18 could be made available under CC, 6 could not be made available and 2 were uncertain. Generally from discussion groups in the workshops, CIE organisations could make the **majority** of their outputs available under CC.

Some materials could not be made available under CC and they came under two categories:-

- **Commercial possibilities:** If rights holders believe that a resource could be used to generate revenue they may be reluctant to publish under CC for fear that it may remove some of the market. (NB this area will be analysed in more detail for the final report)
- **Contain third party materials:** If resources contain third party materials, they will often have been obtained under certain terms and conditions which would make it impossible to publish under CC.

1.3.3 Could CIE organisations use CC?

The general attitude of CIE organisations towards CC was positive:

- **Ideology, Global nature, Digital code, Symbols** were all well received
- **Choice** in particular the choice between Share-Alike and No Derivatives was appreciated.

The following concerns were raised:

- **Redistribution:** Redistributing without contacting rights holder.
- **Technical protection:** It was unclear what constitutes technical protection (e.g. Are password protection and watermarking restrictive technical protection?)
- **Modification:** Concerns about modification. In particulate derogatory, defamatory or detrimental use.
- **Geography:** UK only rather than worldwide
- **Time:** If there is no time restriction, material which is out of date may be used and damage reputation
- **Practical aspects of licence use:** see appendix 2

For technical protection, we intend to clarify the situation by consulting the CC group. With regards to detrimental use, it is understood that future versions of CC will have introduce an appropriate clause though risk can be reduced by using a CC no-derivative option. Concerns

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about out of date material could perhaps be addressed by having statements about the date of origin and the lifetime included in the resource and/or a disclaimer.

From the workshops the key factor which appeared to determine whether resources could be made available under CC was concern about redistribution. For the other restrictions (technical protection, modification, geography, time) the rights holder was often prepared to grant more rights in order to publish under CC. This suggests that even if a derivative licence with more restrictions was to be used, it is unlikely that it would result in more resources being published for reuse.

If an organisation is considering creating a new licence for reuse of resources then they should be aware of the following:

- There is a large cost involved in creating a new licence
- CC has a global image, symbols, digital code and human readable licences associated with it. If a new licence were created, then there would not be a global image. Also it would not be possible to use the symbols and the digital code.
- Familiarity with CC will mean that users will understand what is meant by them and will not have to refer to terms and conditions. If there are many different types of licence for reuse on the market then they will not be compatible and will create confusion for users.
- If resources are created under different licences then it would be more difficult to aggregated them so we could end up with separate “pots” of resources under licence A, licence B, licence C etc etc.
- As stated in the above paragraph, there is no evidence that adding further restrictions will significantly increase the amount of resources which could be made available.

1.4 Organisational Change

In order to use Creative Commons effectively organisations would have to be thinking about making most resources available and only restricting materials that are sensitive to third parties or have commercialisation potential. This would mean that a selection procedure would need to be established and this should be linked to the organisations commercialisation policy.

Organisations would need to consider to what extent CC should be used. In particular

- Should CC be applied retrospectively?
- Should projects funded by the organisation require the outputs be made available under a CC licence?
- Would the cost of administration be greater or less if CC was used. E.g would the selection procedure require more effort than that required for responding to requests for use of resources?

2 Risks

The key risks with using CC licences are:-

- Resource may be incorrectly published under CC and it is difficult to withdraw material once it has been made available.
- Users may not respect terms and conditions of the CC licence
- User may use a resource published under CC in a derogatory manner

However, the first two risks are true of any licence that allows distribution. For the third risk it should be noted that the licensor still retains moral rights; that CC are currently writing a new term to cover derogatory use; and that the risk can be reduced by using a no derivatives option.

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3 Appendix A: Features of the Creative Commons(CC) Licence

3.1 Baseline Features

These are features which are common to all CC licences

- 1) Licensees are granted the right to copy, distribute, display, digitally perform and make verbatim copies of the work into another format.
- 2) The licences have worldwide application that lasts for the entire duration of copyright and are irrevocable.
- 3) Licensees cannot use technological protection measures to restrict access to the work.
- 4) Copyright notices should not be removed from all copies of the work,
- 5) Every copy of the work should maintain a link to the licence
- 6) The rights holder needs to be attributed.

3.2 Optional Features

Rights holders can choose from the following features

- 1) **Non Commercial:** The work can be copied displayed and distributed by the public but only if these actions are for non-commercial purposes.
- 2) **No derivative works:** The licence grants baseline rights, but it does not allow derivative works to be created from the original.
- 3) **Share-Alike:** Derivative works can be created and distributed based on the original, but only if they are published under the same licence.

3.3 Common Misconceptions

From the workshops it appeared to be the case that there are quite a lot of misconceptions about CC. In particular some people thought:-

- 1 Anyone who uses or hosts CC materials has an obligation to make the resources available.
- 2 That permission would still have to be asked by users in order to redistribute materials published under CC.
- 3 That only individuals could publish materials under CC (not organisations)
- 4 That third party materials could be published under CC licences without obtaining permission from the rights holder

In reality,

- 1 There is **no** obligation for the CC material user to host or redistribute the materials.
- 2 Resources that are published under CC can be copied and redistributed by **anyone** on a worldwide basis and there is no need to ask permission
- 3 It is possible for organisations to publish materials under CC licences
- 4 Third party materials should **not** be published under a CC licence unless permission has been obtained from the rights holder.

4 Appendix B: Practical aspects of use of CC

4.1.1 Publishing

- When publishing materials under CC licences care should be taken to ensure that the user is aware which resources are published under CC and which are not. This applies

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in particular to websites that have CC content together with images licensed from a third party.

- When clearing rights for 3rd party materials use it needs to make it clear to rights holder that output will be made available under CC

4.1.2 Using

- Clear procedures are necessary about how to attribute (organisation, date, individual).
- Guidelines are necessary for building composite resources. e.g multiple attributions
- Guidelines are necessary about the responsibility for people using resources published under CC

5 Appendix C: Workshops and Interviews

5.1 Attendees at Workshops

Three Rights holder workshops have been completed. The following people attended the workshops

Name	Organisation
Ann Apps	Manchester University
Simon Bains	National Library of Scotland
Alicia Bradley	Birmingham Museums and Art Gallery
Ceris Bergen	Becta
Roger Blamire	West Midlands Regional Broadcasting Centre
Rachel Cockett	Birmingham Museums and Art Gallery
Patsy Cullen	York St John College
Clair Davis	Becta
Gordon Dunsire	Centre for Digital Library Research
Rob Englebright	Becta
Andrew Fletcher	Newcastle Library
Michelle Gibsone	Office of Public Sector Information
Marieke Guy	UKOLN
Mark Hawkins	Becta
Simon Jephcote	Becta
Daniel Jones	National Archives
Catherine Kearney	Scottish Library and Information Council
Hazel Lauder	Scottish Library and Information Council
Fiona Marshall	East Midlands Museums, Libraries & Archives Council
Frieda Midgley	National Archives
Paul Miller	Common Information Environment
Andy Powell	UKOLN
Alan Robiette	Joint Information Systems Committee
John Sargent	Westminster Council
Pauline Shirley	Libraries and Archives Copyright Alliance
Ralph Weedon	JISC Legal Information Service
Clair Welsby	Culture Online

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5.2 Interviews

The following people have been interviewed

Name	Organisation	Date
Andrew Yeates	Educational Recording Agency	16 th June
Jennifer Rigby	British Broadcasting Cooperation	16 th June
Phill Purdy	Museums, Libraries & Archives Council	13 th May

5.3 Work Completed by AHRC Research Centre for IP and IT law.

Report	Description	Author
Licences	Report on Creative Commons, BBC Creative Archive, BC Campus and Gnu Public Licence	Andres Guadamuz
Orphan Works	Report on how orphan works are handled in different jurisdictions	Charlotte Waelde
Public Sector Information Licence	Report on Public Sector Information Licence	Charlotte Waelde
Mapping copyright to DREL permitted uses	Report explaining what copyright law permits for the use of digital resources.	Jordan Hatcher

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