

Open Education Rising Podcast (www.openeducationrising.net)

Hosted by Deepak Shenoy

Transcript of Episode 9: Five Questions About Creative Commons Licenses

This episode is licensed by Deepak Shenoy under a Creative Commons Attribution 4.0 International License. But what exactly does that mean, how does it differ from other Creative Commons licenses? What are all those cute little icons? And, how can oatmeal raisin cookies help us understand the public domain? Let's find out!

Hello, and welcome to Open Education Rising, a podcast about growing and improving open education. I'm your host, Deepak Shenoy.

A few episodes ago, I promised to do a deep dive into Creative Commons licenses, and here it is! This episode relies upon some ideas I covered in episode 6, on copyright basics. Creative Commons licenses depend upon copyright law to work. So if you missed that episode, you might want to take a listen to it before you go further with this one.

On this show, I'm going to answer 5 questions about Creative Commons licenses.

1. What do all those cute little icons mean?
2. What are the differences between the six licenses?
3. What are the three layers of licenses?
4. Is fair use affected by Creative Commons licenses?
5. Can you apply Creative Commons licenses to things in the public domain?

Before we dive in, I should point out that Creative Commons licenses have different versions. This episode refers to Version 4.0, which was released in 2013. The licenses have been developed and refined over time, starting with Version 1.0 in 2002, when Creative Commons was first formed.

Okay, let's get started.

Question 1: What are all those cute little icons?

If you've seen the Creative Commons licenses, you've seen the different icons. Each of the icons stands for one of four license conditions that can be part of a Creative Commons license. Whichever icons are present determines the conditions, or rules, that are part of that license.

Since this is a podcast, I'm putting in show notes a link to a page that has pictures of the icons. All the icons are black and white, and have a black circle around them. Each one also has a two-letter abbreviation which is helpful for situations where you can only display text and not graphics, such as podcast show notes.

- The first icon has what looks like a person standing up. This is the Attribution condition. This license condition requires identifying whomever holds the copyright. This condition is in all Creative Commons licenses. The text version of this icon is the capital letters BY.
- The second icon has a dollar sign with a slash through it. This means the license does not support commercial use. The text version of this is the capital letters NC, as in Non-Commercial.
- A third icon is a circular arrow going counter-clockwise. It kind of looks like a backwards letter C, but it's got an arrowhead on it. This is ShareAlike, which means adaptations of the work have to use the same or a compatible license type. The text version of this is the capital letters SA, for ShareAlike.
- A fourth icon is an equal sign. This means No Derivatives. Reusers of the work cannot make adaptations. As you would guess, the text abbreviation ND.

Question 2: What are the differences between the six licenses?

You've probably seen the Creative Commons license logos. It's a rectangular gray box with a black bar across the bottom. On the left side there's a CC in a circle, which means Creative Commons. Next to the CC, there's one, two, or three of the license condition icons. Underneath each license condition that is present is the two letter abbreviation in white typeface, and it's written on that black bar.

Okay, as I mentioned, all the Creative Commons licenses need to have Attribution, or BY, as a license condition. The most basic license has Attribution as the only condition. This is abbreviated in text as CC-BY, and has none of the other conditions. For example, that license is silent on issues about whether derivatives are allowed or not, and whether or not the creation can be used for commercial purposes.

After Attribution, or CC-BY, there are three slightly more complex licenses. Each one of these have Attribution plus one other condition: ShareAlike, Non-Commercial, or No Derivatives.

Attribution and ShareAlike together, or CC-BY-SA, means the rights holder wants adaptations of the work to be under the same or compatible license. An example of a site that uses that Attribution plus ShareAlike is Wikipedia.

To prevent commercial use, a creator can use the Attribution plus Non-Commercial license, CC-BY-NC. Keep in mind that the non-commercial condition applies to the use of work, not the user. This can be confusing. For example, non-profits can sell things commercially to raise revenue. But even a non-profit cannot use NC content for commercial purposes. The fact that seller is a non-profit organization has no bearing on this license, it all has to do with how the work is being used.

If the rights holder intended there to be no adaptations of the work, they could license their work as Attribution plus No Derivatives, or CC-BY-ND. There are a few things that seem like adaptations in the common sense, but are not in the legal sense. Is format shifting, like making a digital work into a print copy legally an adaptation? No. Is fixing minor spelling and punctuation errors a derivative? No. How about putting works into a collection? Also no. You can do all those things even if ND is license condition. However, you cannot do other kinds of adapting, like, for example, translating the work in to another language, or rearranging its sections.

Okay, that's four basic licenses: Attribution by itself, or CC-BY, Attribution ShareAlike, CC-BY-SA, Attribution Non-Commercial, CC-BY-NC, and Attribution No Derivates, CC-BY-ND. What are the other two licenses?

They both have Attribution plus Non-Commercial plus and a third license condition. One is Non-Commercial plus ShareAlike, or CC-BY-NC-SA. The rights holder intends for the work to be used non-commercially, and adaptations also have to use the same license or a compatible license. For example, if you remixed parts of the work into an adaptation, you could license that work as Non-Commercial ShareAlike as well. The sixth license is Non-Commercial plus No Derivatives, or CC-BY-NC-ND.

One other thing to keep in mind is that once you apply a license you cannot revoke it. That sounds harsh, but it makes sense. If you license something and others start to use it, they want the confidence that the license won't change. Think of how much less efficient sharing would be if everyone had to keep checking on whether the status of a resource had changed. If something is constantly reused and remixed, as can happen in OER, one license change could affect hundreds or thousands of works, and that would be very difficult, or perhaps impossible, to track. So if you're going to apply a Creative Commons license to work which you have the copyright to, you should be sure about it before you apply it.

Question 3: What are the three layers of a creative commons license?

Each of the 6 licenses has what's called a human-readable layer. This is also called the deed. The deed is a plain-language explanation of the licenses. I'll put a link to a page with all the deeds in the show notes.

Each license has a second layer called a legal code layer. Okay, you have to admit that the fact that the legal code is distinct from what is called a human-readable layer is a little bit funny. All jokes about the humanity of lawyers aside, the legal work done by Creative Commons is seriously amazing. They've done the hard work to define the legal terms correctly so we can all take advantage of these licenses. Because copyright laws vary by country, they've done the advocacy to try to make the licenses as universal as possible, and they continue to do that work. Most people involved with open education will not need to engage with the legal code layer. However, if you do need to dig in, the deed has a link to the more complex legal language behind it.

Okay, we've covered the human-readable layer, also called the deed, and the legal code layer. There's a third layer of the license, called the machine-readable layer. The machine-readable layer is metadata. It's code that search engines can use to identify and index work by its Creative Commons license type.

If you want to create some of that machine-readable code when you post something that you have the right to license, there's a nifty tool called the Creative Commons license chooser. Again, there will be a link in the show notes. You simply tell the chooser what license conditions you want, and it will generate code you can put in your web page, which is pretty cool.

Question 4: Is fair use affected by Creative Commons licenses?

Back in Episode 6, I covered copyright law. If you recall, from that discussion, I mentioned that there are some automatic exceptions to copyright. Those vary by country. Let's recap some examples. One type of exception that applies in the United States is fair use. An example in education is course reserves, where small pieces of a work required for course can be copied. Examples outside of education are commentary and parody. Commentary would be quoting some lines from a book in a book review. Parody would be something like a Saturday Night Live sketch that does a send-up of a movie.

So, are copyright exceptions like fair use affected by Creative Commons licenses? No. Remember, creative commons licenses are built upon copyright law. So if the country you're in has fair use exceptions to copyright, the Creative Commons licenses have no power to alter those exceptions.

Here's an example. Let's say you write a novel and you license it as Attribution-No Derivatives, or CC-BY-ND. If someone else wants to base a parody on it, they can. The fact that the novel has a No Derivatives condition on it does not remove the right of fair use.

Question 5: Can you apply Creative Commons licenses to things in the public domain?

The answer is simply, unequivocally no. But it's worth understanding why. The basis of Creative Commons licenses is that they are grounded in copyright law. They allow the copyright holder to give away some of their rights while keeping others. If you license something under any of those six licenses, you still have copyrights.

Things in the public domain, by contrast, have no rights attached to them. Remember, they got there because the copyright expired, or the person with the rights put them into the public domain. So it's not possible to apply any licenses to them. They belong to the public.

As long as we're talking about the public domain, I should cover two other icons, which are sometimes called marks. Neither represents a Creative Commons license, but since they look very similar, and come up in the context of OER, I want to explain them. And yes, now we finally get to the cookies.

Let's imagine you have baked a tray of delicious oatmeal raisin cookies. You want to share these with your coworkers. You may take them and place them in the break room at your office. To be sure people know they can freely take these cookies without asking you, you write "Free Cookies!" on a post-it, and place it next to the tray.

In this analogy, the cookies are the work you own the copyright to, and the post-it is a symbol called CC0. Graphically, it's very similar to the license condition icons. The outside is black circle. Inside the circle is the number zero. It's a mark you can put on work that you own the copyright to, in order to tell the world you're giving up those rights. Even though, like a Commons License, you apply it to your work, CC0 is not technically a license. Think of it this way. With a Creative Commons license, you are altering the terms of the traditional copyright by giving away some rights, in other words giving others license or permission to do some things, but not do others. CC0, by contrast, is giving away all your rights—there's nothing left to license. You've put the work into the public domain without keeping any rights to yourself.

Okay, back to that tray of yummy cookies. Let's say that your friend passes by the break room and sees the tray of cookies. She wants to share the joy with the rest of the office. She writes an email to everyone with the subject line "Free cookies in the break room!"

In this analogy, the email she writes is equivalent to something called the Public Domain Mark, or PDM. It's also in a black circle, it has a C that looks like the copyright C, but it has a backslash through it. Where does PDM get used? For example, a museum curator might mark very old resources with this to be clear to everyone that they are in the public domain. Or, maybe you're putting together an OER collection, and you use some works that are well known to be in the public domain, and you want that to be clear for others who might remix the collection. PDM has no legal power to put something into the public domain. It's simply used to tag public domain resources in order to make an existing status clearer to others.

One way to distinguishing CC0 and PDM is to remember who they're intended for. CC0 is only something that can be used by the rights-holder, indicating they're giving up their rights. CC0 is for the baker of the cookies. PDM is for someone to be clear when using a public domain resource. It's the email coworkers use to let each other know that tray of cookies in the break room are free.

Well, that's an overview of the basics of the Creative Commons licenses. I hope it was helpful to you. Now I'm off to find some real cookies. Take care!

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This podcast is produced by Savannah Smetlzer. I composed and perform the music. I'm supporting this podcast from my consulting practice, which you can visit at deep-consulting.net. Until next time, take care.