

Creative Commons is a concept that originated in the United States in 2001 and encourages copyright owners to allow others to share, reuse and remix their material through the use of special licences. It has developed into a worldwide movement, and the Pacific Islands' first-ever Creative Commons workshop was held in October 2013 in Port Vila, Vanuatu. The workshop was embedded into a range of other forums and discussions designed to support the fledgling music industries in the region, and was also part of Vanuatu's annual *Fest'Napuan* Music Festival. [Read blog posts by COSV, Creative Commons](#) and [lettera27](#) to learn more about the whole event.

The purpose of this *In Brief* is to outline the concept behind Creative Commons and its possibilities and limitations for the region.

What is Creative Commons?

To explain Creative Commons it is first necessary to say a little about how copyright works. Under the global copyright regime, copyright automatically exists in all original works (which can be musical, literary, dramatic etc.) once they are embodied in material form, without any need for registration. This essentially means that these works must be written down or recorded in some way. Once this occurs, only the author of the work has the right to reproduce the work, unless he or she licenses those rights to someone else. In other words, under copyright principles, there is a default position of 'all rights reserved' for all new works, which continues for the life of the author plus 50 or 70 years depending on the country.

However, a lot of people do not want to have such exclusive rights over their work — they want others to be able to freely use it as well. So the people behind Creative Commons came up with a series of model licences that can be used to signify to the world that copyright is *not* being claimed in relation to a particular work, or being claimed

only in certain conditions. For example, one licence provides that others can use a work as long as the author is attributed, and another provides that the work can be used freely for non-commercial purposes. Other examples of licences are on the [creative commons website](#).

The [underlying message of Creative Commons](#) is that universal access to research and education and full participation in culture is currently being inhibited by copyright laws. The Creative Commons licences are one way to try to work around these problems. Over the past 10 years, Creative Commons has demonstrated that facilitating sharing of works in all forms can lead to many economic and social benefits for authors, and also for the general public. In particular, these licences have led to the development of a richer common domain of knowledge and creative and artistic works, to serve as inspiration for the creation of new works.

What Use is There for Creative Commons in the Region?

The benefits of Creative Commons in the Pacific islands come through its challenge to the presumption that an 'all rights reserved' copyright approach is necessary for authors to benefit commercially from their work. One example of this in practice was provided at the workshop. The presenter told the story about the time when [Kom Zot](#), a pioneering reggae band from Réunion, had their demo files accidentally leaked to the public. Unexpectedly, the band found that this operated in their favour, as it led to more people listening to and enjoying their music, resulting in an increase in sales. Rather than taking action to stop people from sharing the files, the band used the opportunity to communicate with fans and to promote their music (Pae 2014). [Cristina Perillo](#) explains that 'as a result of this experience, the artist has created a one year project: 15 songs available for free download

on his official website, one (or two) per month. The result? Next to the expected large number of downloads, an exponential growth of requests for performances and concerts.'

Enforcing copyright laws in the region is sometimes difficult because of the lack of capacity of courts, police and others in the justice system to deal effectively with such new categories of cases (Daurewa 2013). The Creative Commons approach allows more flexibility than traditional copyright, and may offer significant practical benefits to the practice of copyright in the region. For example, bands may use Creative Commons licences to allow free sharing of their music by their fans on a personal level, but require fees for their music to be played on a commercial radio station, or used in an advertisement. The original free sharing may create a large fan base that could in turn stimulate demand for commercial use and live performances. The use of simple images in Creative Commons licences to demonstrate the rights that are claimed (Figure 1) also have potential to help spread awareness about copyright in the region, and to initiate much-needed public debate about intellectual property policy.

Figure 1: Creative Commons licence examples



What Limitations May There be for the Concept in the Region?

Creative Commons licences are based on copyright laws, as it is copyright laws that ensure that any of the reserved rights can be enforced. Therefore, to the extent that the copyright system does not exist or is not enforced in the region, Creative Commons licences are legally ineffective. Further, Creative Commons licences are a 'patch' on the problems of the global copyright system, not a solution. The creators of the licences have [recently stated](#) that further efforts are required to 'reform copyright law to strengthen users' rights and expand the public domain.'

These comments suggest that the development of intellectual property policy in the region should be informed by a consideration of how best to balance the rights of creators and users in the context of the region. In developing such policies, the following factors may be taken into consideration:

- the need to ensure as much access as possible to global sources of knowledge and intellectual property-protected goods (such as computer software and textbooks), and the reality that Pacific island countries import far more intellectual property than they export
- the limited capacity of most states in the region to administer and enforce state-based copyright regimes, and the cost of these regimes
- the existing local understandings, norms and institutions that currently regulate intangible property throughout the region (some call this 'indigenous copyright').

These three factors suggest that what is required are copyright policies that actively promote the sharing and diffusion of the whole body of human knowledge for the benefit of the region, find creative and effective ways to protect the rights of authors, and engage meaningfully with local systems of knowledge production and reproduction. Creative Commons provides an important inspiration for the benefits of thinking creatively and laterally about intellectual property policy, rather than simply accepting the global model.

Author Notes

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References

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