

COPYRIGHTS OR COMMONRIGHTS?

BC Commons Creates a Sustainable Environment for Learning Resources

Like ecosystems, human systems often exist in a delicate state of equilibrium. Tilt the scale too far to one side and bad things can happen. In the world of copyright, the law has historically provided equilibrium between the commercial rights of copyright owners and the access rights of copyright users. But since the passage of the 1998 Digital Millennium Copyright Act — which tightened restrictions and toughened penalties in the United States — there has been a meteoric rise in copyright lawsuits.

As Canada's Parliament conducts a review of its own copyright law, the scale threatens to tilt even further towards copyright owners. The consequences of such an imbalance are already having a chilling effect on uses of copyrighted works, particularly in the arena of public education. BCcampus tilts the scales back into equilibrium through the licensing of online learning resources at the development stage using Creative Commons or BC Commons licenses. This clears the way for distribution, reuse, and modification by others.

In this post-Napster era, it's understandable that copyright owners are taking a harder line on protecting their intellectual property. New technologies like [file-sharing networks](#) and CD-burners allow illegal copying to occur on a scale so huge, it makes the photocopier seem archaic. For example, some experts blame digital piracy for the 500 million dollar decline in Canadian recording industry revenues since 1999. This has propelled major copyright owners like the [Canadian Recording Industry Association](#) to aggressively enforce and even enhance their intellectual property rights through legislation, standards organizations, and the courts.

Opposing this shift in balance are consumer advocates, academic organizations and public interest groups. As major users of copyrighted works, they understand the importance of access. Public libraries and schools, for instance, are mandated to provide patrons with free access to copyrighted works, while bearing ever-escalating costs of license fees. As a result, these groups make a desperate plea for balance in the treatment of copyright.

Balance is especially important in the realm of online learning, where unrestricted access to copyrighted works is critical to the fulfillment of educational mandates. In the case of BCcampus — whose mission is to make online resources available province-wide — sharing and reuse of materials is paramount to its success. From this perspective, any movement to tighten copyright law potentially undermines learning options for students.

Today the challenge facing policymakers is to find a solution on the middle ground. One that balances the creator's legitimate claim to copyright protection with the access needs of the public education system. BCcampus' "BC Commons" license does just that. An adaptation of the Creative Commons model, BC Commons is a flexible copyright license that enables developers of online learning resources to retain their intellectual property rights, while allowing educators in BC's public post-secondary system to reuse and repurpose works free of charge.

Dawning of the Commons

[Creative Commons](#) stands out as the leading alternative to conventional copyright. Launched in 2001 by a group of copyright experts, the organization has become renowned for its “open” licensing model. Under it, people can choose to share their original creative works — including music, movies, literature, photography, art, etc. — without the limitations of current copyright laws.

Today on the Google website, close to 2 million listings display under a keyword search for “Creative Commons.” Similarly, on [Common Content](#), a website of Creative Commons licensed content, nearly 3000 items are freely available for public use.

As a balance between full copyright control and the public domain, Creative Commons’ mission is to “build a layer of reasonable, flexible copyright in the face of increasingly restrictive default rules.”

“Balance, compromise, and moderation — once the driving forces of a copyright system that valued innovation and protection equally — have become endangered species. Creative Commons is working to revive them. We use private rights to create public goods: creative works set free for certain uses.”
(from www.creativecommons.org)

Making it simple

Unlike traditional copyright contracts, the Creative Commons license is simple, succinct, and comprehensive. Here’s how it works: from the website, users choose which rights they wish to retain, which determines the applicable license for their work. Then, using the license generator, they “tag” their work with a machine-readable piece of code and icon. When clicked, the icon presents a plain language version of the license as well as a more formal legal license.

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Drawing from the open source model

As with the Open Source software development movement, Creative Commons supports the practice and belief that digital products can do better when shared in the public domain rather than through conventional proprietary channels. The Linux operating system is one of the best examples of how this model can work.

Linus Torvalds, the originator of Linux, released the initial code for the software in 1991 and invited developers from around the world to enhance it, under the condition they also make their revisions publicly available.

Torvalds never sought to assert copyright ownership over his code. Through the work of worldwide developers who continue to freely improve upon it, the increasingly popular Linux platform has become one of the most reliable operating systems ever produced.

The Open Source business model focuses on provision of service rather than a license fee. Similarly, BCcampus uses the Creative Commons and BC Commons licenses in order to apply the continuous improvement model of Open Source to the development of online learning resources. These licenses make sharing both possible

and predictable, while redefining how intellectual property is managed in post-secondary education. Through a more flexible set of rights, authors can now take advantage of more open models while still maintaining control of their works.

Costs and Benefits of Online Learning

In these lean times, post-secondary institutions face intense pressure to streamline costs while expanding learning options for students. Driven by a growing demand for access from young people, combined with an unprecedented increase in older learners, the BC Government recently committed to creating 25,000 [new student spaces](#) by 2010. Public universities and colleges, for their part, are using online learning as one way to expand program offerings without compromising the quality of education.

But quality online learning programs don't come cheap. Not long ago, it was common practice to simply paste some lecture notes on the web and call it an online course. Today's students have much higher expectations. To be truly engaged, these learners demand interactive tools such as instant messaging, online forums and webcasting, resources that leverage the unique capabilities of new digital technologies. Developing these resources requires a substantial investment of time and money, not to mention the ongoing effort of highly skilled specialists.

In response, the Government initiated [Online Program Development Fund](#) through BCcampus to fund new post-secondary course development. Each year since 2003, BCcampus has issued a \$1.5 million Online Program Development Fund Request For Proposals (RFP) out to British Columbia's public post secondary system. Sixty-six proposals outlining the creation online programs, courses, virtual labs, learning objects and technologies have been awarded funding totaling \$4.5 million. Developers retain Intellectual Property (IP) and copyright for the products of their development but, as a condition of funding, must license the resources for sharing and reuse using Creative Commons or BC Commons.

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How BC Commons works

All projects that receive money from the BCcampus Online Development Fund have the following licensing options:

- **BC Commons license:** The BC Commons license allows anyone in the BC public post-secondary sector to sample, copy, reuse, repurpose, or modify the original developer's courseware, software, or tools for free. The original developer is given attribution. If reuse modifies the original resource the new and improved resource must be shared back to the repository. Derivative works are distributed under the same license. This model applies Open Source software concepts to learning resources by subjecting them to continuous improvement by a collective of professional peers. BC Commons restricts sharing and reuse to BC's public post secondary system. Developers retain the right to commercialize or distribute their resources outside of BC for a fee if they choose.
- **Creative Commons license:** This is an optional license that is essentially the same as BC Commons but extends the scope of sharing outside BC's borders to the rest of the world.

The technology – a province-wide sharing repository

The mechanism through which work is shared is the BCcampus learning resource repository. This repository provides a searchable database of courses, learning activities, learning objects, tools and resources accessible through the web for reuse and modification. The goal is to give educators across BC's public post secondary system a starting point for resources that they can use for their online teaching saving them the cost and time of having to develop everything from scratch.

BC Commons: The Value Proposition

BCcampus believes its Creative Commons/BC Commons Open Source approach for sharing, reuse, modification and distribution of online learning resources serves as a model for dissemination of knowledge in the Internet age.

The value proposition of this approach includes:

- allowing intellectual property (IP) and copyright to be held by the developer.
- leveraging an initial investment of public taxpayers dollars many times over by allowing for free sharing and reuse among a defined consortia.
- establishing a policy for online learning resource development that supports free sharing of content among a regional consortia while still retaining commercialization potential outside the consortia.
- eliminating the weeks and months of time it can take to seek permission to use existing digital materials by tagging the asset with explicit terms defining rights to use. Educators can use the asset immediately without having to go through a permission seeking process.
- allowing others to reuse and modify original work providing a means for continuous improvement of online learning resources by a collective of professional peers.
- optimizing learner experiences by generating high quality online learning resources over time.- tracking use and reuse creates a form of market research. Lots of reuse of a resource signals its potential value in other academic domains or jurisdictions. High use data is invaluable for launching commercialization scenarios requiring investment based on the demonstrated market potential of a resource.
- moving development of educational content from being closed and exclusively in the control of a single educator to open and shared with others. When professional peers can see and contribute to a work there is increased pressure to develop quality work in the first place and the means to quickly improve it if needed.
- leveraging a unique aspect of digital assets - the marginal cost and effort in making copies and distributing online learning resources over a network.
- building the reputation of developers through attribution. Developers whose work is used by hundreds or thousands of other people receive recognition that can be used to support performance measures.

An advantage of shared learning resources is the increased opportunity for professional growth via review and feedback. With the BCcampus learning resource

Project: White Paper
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repository and the BC Commons license, instructors can not only reuse each other's work, but can read and contribute detailed feedback through ranking and comment mechanisms. Statistics on use and reuse are also be tracked to identify which resources are the most popular and valued by the community.

Looking to the Future

As governments — facing increasing pressure from commercial interests — move towards tightening copyright and intellectual property laws even further, collaborative frameworks like BC Commons stand out as efficient, balanced approaches to sharing intellectual assets with audiences and markets worldwide. As with the Creative Commons, BCcampus hopes its BC Commons initiative can help support a sustainable creative environment by contributing “a wide range of creative works, in a variety of media” to the toolkit of learning resource development.

For more information, visit www.bcccommons.ca.