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Seminars for Arts Professionals

SEPTEMBER SEMINAR SUMMARY

COPYRIGHT OR COPYLEFT

Alternative licensing models in the digital era: promotion or protection

The September SAMAG seminar, *Copyright or Copyleft: Alternative licensing models in the digital era: promotion or protection* could just as easily have been entitled *Licensing: The Final Showdown!* The beneficiary of this epic battle however, is you, the recipient of this helpful guide from three experts on choosing the best licence for your work.

The Referees

- David Noakes – Producer, Director and former Business Innovation Manager for Screen Australia;
- Scot Morris – Director of International Relations, APRA/AMCOS;
- Delia Browne – National Copyright Director, Copyright Advisory Group.

The Arena

The internet can be a wild and unpredictable place, so for those of you with creative content ready to be sent out into the big wide digital world, it is important to know how best to protect it from being used in ways you might not intend.

If you are unaccustomed to the seemingly intangible world of digital - a 'digital migrant' as Scot Morris labels himself - it can be an intimidating concept. For those who embrace it, however, this world can present a multitude of new creative platforms, new distribution techniques, new revenue streams and, most importantly, whole new audiences.

These new audiences, as David Noakes describes them, are no longer 'bums on seats', physical audiences, but a 'cultural matrix' of interconnected beings. They are audiences that are not governed by the same checks and balances that previously protected creators' rights. So how can these largely unsupervised audiences that have constructed new and intricate ways of ducking past the ticket collector be turned into a revenue producing resource for the creative community?

Noakes suggests that by remaining flexible with your content delivery, there are a multitude of benefits for the digitally savvy content creator:

- Promotion: The internet can be a great way to get noticed. The use of creative spaces on the internet to promote your work can be used to access the 'jewel in the crown' traditional platforms such as TV and radio.
- Quality: The advance of digital technology provides a flexible product that can be manipulated for a variety of uses.
- New business models: The digital marketplace allows the creator to develop new product packages and price points to cater for varying customer needs.
- The use of previously 'unusable' material: The online sale and delivery of 'module footage' is one example of the new business models emerging at a rapid rate. Film makers can sell these modules - say 30 seconds of footage of a hammerhead shark – directly to anyone who has a use for them.
- Broadcasting: The internet is now a broadcast medium of its own right, whereas previously it was considered ancillary to TV and radio. New revenue streams are being identified. Advertisers have recognised this and are often open to collaboration.

The Fighters

In the red corner – the misunderstood young upstart threatening to shake the very foundation of traditional licensing - hailing all the way from the US of A:

Creative Commons

Creative Commons (CC) is a not-for-profit organisation which provides free licences for content creators. CC's aim is to give the public greater access to creative content.

The four basic Creative Commons licences available are:

- Attribution – Others must give you credit as the original creator
- Non-commercial – Content can not be used for commercial purposes

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SEPTEMBER SEMINAR SUMMARY

- No derivative works – Content cannot be altered, transformed or built upon by others.
- Share Alike – Content can be altered, transformed and built upon but should be then distributed under another share alike licence.

These four basic licences are flexible and can be mixed to suit your content's intended use e.g. a song licensed under an Attribution-Share Alike licence would allow others to remix your song and then share it, but only if they attribute the original recording to you.

The CC website has a licence creator which you can use to create the most suitable licence for your work.

The licence will come in three different formats:

- Human readable – Everyday people can understand it;
- Lawyer readable – Lawyers can defend it in court if necessary;
- Computer readable – Computers can recognise the limitations of the licence (this can also allow you to attach links to your website and make your content available to search engines as CC licensed content).

Although you are effectively giving away your work, this does not necessarily mean that there is no revenue to be made from your content. CC licences are a perfect match for the flexibility of digital platforms and can be used to develop new business models and progressive product packages as well as develop new relationships with advertisers and distribution streams. In March 2008, Nine Inch Nails, a former major label artist, released a thirty-six track album, *Ghosts I-IV*, under an Attribution-Non-commercial-Share Alike licence. Despite offering this album for free download, NIN were still able to make net \$US1.6 million *overnight*.

How?

NIN used the flexibility of their Creative Commons Licence to build a range of different packages for the album. These packages included the free download of the first nine tracks, \$US5 for the whole album and an ultra-deluxe limited edition vinyl pressing for \$US300.

The Pros

- You are able to mix and match different licence elements to create a licence that best suits your content;
- The integrity of your copyright will be maintained;
- They will last for the life of your copyright;
- Promotes creative cultural conversations involving your work, you can give your work 'a life of its own';
- You are free to creatively promote your work and to find new, uncharted revenue streams.

The Cons

- Once a licence is applied, it cannot be revoked. You cannot change your mind and apply another type of licence. This can lead to issues if you are using your work to promote yourself, as you would not be able to withdraw the licence if offered a traditional distribution deal.
- As the work can be used and distributed by anybody, your work might be used in ways you do not morally agree with. As long as the use is within the constraints of the licence, you are unable to do anything about it.
- If someone *does* use your work in a way you do not agree with, and which is a breach of its licence, it is up to you to pursue the matter. A non-commercial licence is not a guaranteed way of guarding against unethical use of your content, as the term commercial is often hard to define.
- Every licence allows verbatim copying, public broadcasting and distribution; there is no revenue to be made through traditional revenue streams.

And now, in the blue corner - at a whopping 84 years old – the dynamic duo and heavyweight champions of the creator:

APRA/AMCOS

The Australasian Performing Rights Association (APRA) and its partner The Australasian Mechanical Copyright Owners Society (AMCOS) are not-for-profit organisations that both apply licences to your work and enforce them.

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APRA/AMCOS specialises in collection of fees for the use of content on behalf of the musicians, composers and publishers who create it. Both bodies will negotiate the use of your content as well as take action against infringements of its licence.

APRA specialises in collecting payment for the performance and broadcast of content, while AMCOS is the mechanical copyright arm of the partnership; collecting revenue for the reproduction of your work through CD and DVD manufacture, music videos, TV and radio production as well as mobile phone ringtones and digital downloads.

The Pros

- APRA will represent your right to be paid for any performance of your work including at a pub, club, festival, concert, TV or radio broadcast as well as any internet download.
- It maintains your right to distribute free licences if you choose to
- There are licence-back schemes to allow creators to change their mind.
- If your work is used unethically, APRA/AMCOS will take action on your behalf.

The Cons

- There is only one type of licence, although APRA/AMCOS, in recognition of the changing face of the creative industry, have developed schemes to allow greater freedom to the creator. This freedom, however, is still not as flexible as a CC licence.
- As there are limitations on reproduction and sharing of your work, the opportunities for large scale 'virus' promotion is limited.
- It is a less democratic form of licensing, and as such does not allow the same freedom for the content to have a life of its own. Remixing and adaptation of your work is forbidden, unless permission is sought from you.

While there are technical details with both types of licence that differ greatly, the primary difference is philosophic. CC is entrenched in the concept of cultural development and freedom. APRA is based primarily on an industrial philosophy; that an artist, just the same as a shoe maker or any other business with a product to sell, must be paid for their product.

While the two options presented at *Copyright or Copyleft* might seem in direct opposition, they are in fact complementary. Both CC and APRA/AMCOS are there to support creators and to give them the right to decide what they do with their work. Which direction to take for licensing your content ultimately comes down to how you want it to interact with the new, digitally connected world around it.

<http://www.creativecommons.org.au>

<http://www.apra-amcos.com.au>

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