

Why Creative Commons Makes Sense for Development

By Heather Ford

Why should donors fund projects such as Creative Commons (CC)? What is the link between CC and development? How do CC projects fit into broader, long-term strategies around funding ICTs for development? These are some of the questions that are emerging in the ICTs for development sector, questions that are worth exploring especially in the context of developing countries, where the resource base has been dwindling. This calls for innovative and creative ways of funding ICTs for development.

But what is Creative Commons?

Creative Commons is a non-profit organisation based in San Francisco, which has developed a set of free copyright licences that enable copyright holders to grant some of their rights to the public while retaining others for themselves. Copyright holders can specify whether they want to allow non-commercial/ commercial use of their work, whether they want to allow derivatives, and whether derivative works should carry the same licence conditions as the original. Other contract schemes include a dedication to the public domain, music sampling licences and developing nations' licences. They also provide RDF/ XML metadata that describes the licence and the work, making it easier to automatically process and locate licensed works. (See www.creativecommons.org for more information on this).

How the CC movement evolved and developed in Africa.

The most important first step for CC in Africa is to draw the link between CC and the people living in Africa.

Before its introduction in South Africa, and in other parts of Africa, CC was generally viewed as a Western concept or “brand.” The first concern that people raised was: “That may work in the US, but this is Africa – the Internet (and copyright) is very different here.”

When the author initiated CC South Africa (CCSA), the first project was to tell the stories about local people who were using the licence, thereby capturing the imagination of others who realised that if someone living in Africa could do it, perhaps there was some relevance for them. This started the “consultancy” campaign, where short advisory reports for organisations mostly in South Africa were drawn up, seeking to outline what CC is and why it is relevant to organisations, who else is using CC in the various sectors (e.g., education), and how to implement the licences (e.g., contracts, Web policy documents).

The education and civil society sectors provided good starting points, since they generally had a public mandate to extend education or awareness to all and were generally funded using public funds. Thutong, the national Department of Education’s educational content portal, didn’t take much persuading to use CC to licence the information hosted on their portal since they had an “open content” policy but didn’t have legal contracts to go with it. SchoolNet Namibia licenced their *Hai Ti!* comic series under the CC banner and Mindset also started a process to ratify a policy around using cc to licence their own vast repository of educational content.

The approach proved highly successful. Perhaps the most exciting, unexpected effect was that a number of organisations who were effectively “competing” for the same audiences and generally wouldn’t have shared their information with one another, were now compelled to do so by using CC’s “no permission needed” approach. By using open licences, educational institutions had to share their content, thus enabling them to gain better focus on the kinds of content they would each develop.

By beginning at an institutional level, compelling organisations to take a critical look at the ownership of knowledge and how their policies around intellectual property were serving their own organisational goals, a debate started in the educational sector about open knowledge and its impact on the goals of making education more accessible in Africa.

At the same time, the focus was also on expanding the scope of work to encompass a broader view of intellectual property developments in Africa. Stimulating organisations to use their private rights to create public

assets wasn't the only answer to Africa developing new perspectives around intellectual property. Creative Commons, after all, was just a set of copyright "contracts" that people could use to mark their content as free to copy and share under conditions set by the author. A great deal of work still needed to be done in order to discover how concepts such as the African "public domain" (works where copyright has lapsed), WIPO's "Development Agenda", "open business models" on the Internet and the role of archives could stimulate real economic development on the continent.

Very little information existed that connected the kinds of activities happening in the free software, open content, open access and artistic spheres in Africa. There was therefore need to build a conceptual map of the "Commons" in Africa. Building the African Commons in the imagination of its people, was an important first step in initiating debate as to what constituted the Commons. As James Boyle (2003) writes, there is a need for a new kind of "environmentalism" when it comes to public knowledge – a mapping out of what needs to be protected and propagated – in order for the information commons to become a reality in the future.

Private organisations started to contribute works to the Commons, and stimulated others to create derivatives (translations etc.) from these works, raising questions on the role that governments, national archives, heritage trusts and donors could play in stimulating the same kind of creativity on a national scale? It soon became clear that the idea of the Commons is only emerging in Africa and that a great deal of work still needs to be done in developing an environment conducive to the kinds of innovation and creativity that will contribute to Africa's development.

Building a strong culture of open innovation in Africa still requires a great deal of work. Perhaps the greatest challenge is in finding partners in other African countries to help build research programmes and projects around intellectual property alternatives. However, challenges remain regarding how this interest can be stimulated and developed, and whether such activities and programmes should be coordinated by a regional office or should develop organically and independently. This paper proposes three possible activities towards successful CC in Africa.

Building university programmes around "digital commons" concepts

Intellectual property rights programmes are currently

limited to law schools in most developing countries, and then mostly to traditional (Western) assumptions regarding the rationale for intellectual property laws. These programmes don't take into account the unique development needs that face developing countries, the Western origin of intellectual property laws and new approaches to intellectual property expressed by the open content and free software communities, and by a host of academics around the world who are calling for new approaches to intellectual property policy-making.

African universities need to extend their current curricula to encompass these new approaches and to apply intellectual property curricula to other faculties, such as the arts, public policy, media, economics and business faculties – areas that are becoming increasingly affected by intellectual property rights policies. Only when there is a new generation of graduates asking fresh questions about IP for development will there be stimulation on the kind of debate and research necessary for countries that are attempting to develop new policies. Because this is such a new area, very little research currently exists on the policy implications of "open ecosystems." There are many questions that need a new generation of thinkers who don't simply accept the assumptions that have come to dominate mainstream IP thinking. Developing countries need to generate their own debate and their own solutions if "open approaches" are to be taken into consideration in policy-making.

Building "living archives"

There is need for research in each sector and in relevant sub-sectors to define what information would be of benefit to organisations, communities and economies if open to all. Opening information in public and semi-public archives and museums, for example, could have an enormous positive impact on local creative industries.

There are archives and museums that house important local music, film, television programmes, photographs and historical material that are basically inaccessible outside the walls of the physical structure. For example, the International Library of African Music (ILAM) has one of the world's best collections of African musical instruments and recordings of African music from across the continent. The materials were recently digitised in a donor-funded project to make them more "accessible" and to prevent disintegration. The potential of that material, if released on the Internet under CC licences is enormous.

Local musicians could integrate the sounds in developing uniquely African musical products. International and local musicians and music students could learn more about African musical heritage, growing the awareness and appreciation for African cultural products, filmmakers and television studios could even pay the library for their use of samples in commercial products. The potential is endless.

And yet the ILAM, like many gatekeepers of African heritage, is reluctant to open its content on the Internet – even using CC copyright licences that restrict certain uses. Old business models, lack of public accountability and default copyright licences are stopping many of these important public resources from realising the incredible potential that they could be reaching. Thus, CC initiatives in Africa, should focus on the innovative power of building “living archives.” “Living” as opposed to the “dead” and “dying” museums and archives restricted to geographical locations – often by inappropriate copyright policies that have not been updated in keeping with technology’s potential.

Building a remix culture

One of the basic tenets of the CC philosophy is that copyright prevents an important creative need of the modern information age: that of “remixing.” For Africa, this meets a direct need for us to grow local culture, science and innovation from the raw materials of our heritage, and of the popular culture around us.

In order to build a remix culture there is need to build services around open content or content whose licence enables it to be “remixed.” Creators need to be able to simply find and access such content, understand what they are able to do with that content, and have a platform and incentives to share their derivative works. Creative Commons licences, in their next edition, will provide links to places where works can be purchased for commercial use, for example, thus setting up a firm foundation for “business commons” activities. Platforms for “legal remixing” are also being developed – such as ccMixer, where artists are able to discover, remix and publish music legally (see www.ccmixer.org and www.ccmixer.co.za).

Because the biggest challenge to building a remix culture in Africa is still bandwidth costs, it is essential that open content projects partner with infrastructure, e-commerce and training initiatives in order to provide an end-to-end solution to creators and innovators who are

using the Internet to grow their markets and experiment with new models of production.

There is a great deal that still needs to be done in developing a vision of the digital information commons in Africa. But perhaps more valuable than the activities themselves is how they need to be conducted. Three fundamental philosophies underlie successful Commons projects: collaboration, community and openness.

Collaboration across geographical communities is still a challenge, and yet such collaboration is essential to the development of relevant and high-quality services and products. Much more can still be achieved in forming collaborative relationships across continents, linking southern organisations, as well as North-South collaborations. Perhaps the greatest lesson CC has learned is to keep hierarchies flat, and yet still establish clear ideas about the goals of collaborative exercises.

Establishing communities of practice and engaging members of the community in activities where they play an active role is essential to the success of open ecosystems. Unless you can provide a relevant, useful service, you won’t build a community, and building an active community is perhaps the greatest measurement of success in developing dialogue in this area.

Openness used to be a simple concept, but today “openness” has come to consist of a complex set of relationships between what knowledge one chooses to share or distribute and how, ownership of that knowledge, what “ownership” really means with regard to tacit and explicit value, and what rights (derivatives, commercial etc) the community should have to the knowledge for it to be considered “open.”

There are still so many questions to be asked as Africa grapples with these issues. One consideration is whether the ideal is the creation of an environment open to possibility, where every African born into society has real access to the possibility to create and advance societies; or whether the ideal is the creation of a society with doors and expensive keys, where one’s destiny is decided the moment one is born, and where one’s ability to create modern culture, art and science is determined by a set of rules that apply only to the rich. The pioneers of the CC, free software, and open access movements have at the very least given us a glimpse into other possibilities. ■

This article is licensed by Heather Ford under a Creative Commons Attribution Share-Alike South Africa 2.0 licence <see <http://creativecommons.org/licenses/by-sa/2.0/za/> for full licence conditions>.