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Rethinking creative commons licensing: A policy proposal to safeguard against copyright trolling and enhance knowledge sharing

Onoriode Reginald Aziza ^{1,*}, Portia Oduro ², Ngodoo Joy Sam-Bulya ³ and Ngozi Samuel Uzougbo ⁴

¹ *Independent Researcher, Lagos Nigeria.*

² *Energy Law Center, Paul M. Hebert Law Center, Louisiana State University, USA.*

³ *Independent Researcher, Abuja, Nigeria.*

⁴ *Independent Researcher; Columbus Ohio, USA.*

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Abstract

This paper addresses the pressing need to reform Creative Commons (CC) licensing in response to the challenges posed by copyright trolling. The paper highlights how these factors undermine the integrity of knowledge-sharing ecosystems by examining the economic motivations behind copyright trolling and the ambiguities in existing CC licenses. It proposes a dual approach that combines policy advocacy with theoretical development, recommending clear licensing language, anti-trolling provisions, and the establishment of an oversight body to protect users while maintaining creator incentives. Through case studies and analysis, the paper illustrates the potential benefits of these reforms, advocating for a more equitable and inclusive framework that fosters creativity, collaboration, and access to knowledge. Ultimately, the aim is to recalibrate the balance of power within the licensing landscape, ensuring that both creators and users can engage freely and securely in sharing creative works.

Keywords: Creative Commons; Copyright Trolling; Knowledge Sharing; Licensing Reform; User Protection; Policy Advocacy

1. Introduction

Creative Commons (CC) licensing provides an innovative framework for distributing and using creative works, enabling authors, artists, educators, and researchers to share their creations while retaining specific rights. This system offers a variety of licenses that allow creators to specify the terms under which their works can be used, ranging from full copyright to various degrees of permissiveness (Paskevicius, 2021). The primary aim of Creative Commons is to promote knowledge sharing and collaboration by making it easier for individuals and organizations to access and utilize creative content legally. In an era where information is readily available online, CC licenses play a crucial role in fostering an open culture that encourages the free exchange of ideas and resources (Tenopir et al., 2020).

However, the rise of copyright trolling poses a significant threat to the integrity of this knowledge-sharing model. Copyright trolling refers to the practice of aggressively pursuing legal claims against individuals or organizations for alleged copyright infringements, often in a predatory manner (Sansone et al., 2019). Trolls typically target those who may lack the financial means or legal knowledge to defend themselves, leading to settlements that disproportionately favor the troll. This exploitation creates a chilling effect on creativity and sharing and undermines the foundational principles of CC licensing. As more individuals become wary of using creative works for fear of legal repercussions, the intended benefits of open access are jeopardized (Chang, 2023).

* Corresponding author: Adetumi Adewumi

This paper aims to critically examine the current landscape of Creative Commons licensing in light of the challenges posed by copyright trolling. By exploring the economic drivers behind this practice, the paper will propose necessary reforms to the licensing model that aim to protect users while maintaining adequate incentives for creators. Key themes include the interplay between economic theory and policy advocacy, the need for enhanced user protection, and the importance of safeguarding the integrity of knowledge-sharing ecosystems. Ultimately, this paper seeks to recalibrate the balance of power within licensing agreements, promoting a more equitable environment where creativity and collaboration can flourish without the threat of exploitation.

2. Theoretical Framework

2.1 Economic Drivers Behind Copyright Trolling

Copyright trolling has emerged as a lucrative business model in the digital age, driven primarily by the potential for significant profit from aggressive legal enforcement. At its core, this practice exploits the complexities of copyright law and the vulnerabilities of individuals and small organization (Tylec, Maćkowska, & Kwiecień, 2022)s. Trolls typically acquire copyrights to works—often through bulk purchases or dubious claims—and then engage in targeted litigation against alleged infringers. The economic rationale behind this behavior lies in the low risk and high reward associated with pursuing settlements. Many victims opt to settle rather than face the high costs of legal defense, which can often exceed the amounts being claimed (Radsch, 2023).

This economic incentive is compounded by the asymmetry of power in the legal landscape. Large corporations or copyright trolls have the resources to engage in prolonged litigation, while many alleged infringers, including educators, non-profits, and individual creators, do not. This power imbalance allows trolls to leverage the fear of litigation as a weapon, often resulting in settlements that can far exceed the potential damages of the infringement. Thus, the profit motive in copyright trolling creates a cycle of exploitation that undermines the principles of fair use and knowledge sharing (Smith, 2021).

2.2 Analysis of Existing Creative Commons Licenses

Creative Commons licenses were designed to facilitate sharing and collaboration but are not immune to manipulation. While these licenses provide a spectrum of options—from fully permissive to more restrictive ones—the legal language can often be vague or complex. This ambiguity can lead to misinterpretation, making it easier for trolls to assert claims of infringement. For instance, a user may believe they are acting within the bounds of a CC license, only to find themselves embroiled in a legal dispute over the nuances of that license's terms (Reid, 2019).

Moreover, the existing framework lacks specific protections against copyright trolling. Although CC licenses aim to enhance accessibility and reduce barriers to sharing, they do not explicitly address the predatory practices of copyright enforcement. As a result, users may feel uncertain about their rights, deterring them from fully utilizing creative works. The interplay between the intention of CC licenses and the realities of their enforcement reveals a critical gap that needs to be addressed to restore trust in the system (Holmes et al., 2019).

2.3 Implications for Creators and Users

The implications of copyright trolling and the inadequacies of current Creative Commons licenses are profound for both creators and users. For creators, the threat of litigation can have a chilling effect on their willingness to share their works openly. While many creators utilize CC licenses to encourage sharing and collaboration, the fear of potential exploitation by trolls may lead them to be more restrictive with their content. This results in fewer resources being available for educational and creative pursuits, ultimately stifling innovation (Caelin, 2022).

For users, the repercussions are equally significant. The constant threat of copyright infringement claims discourages individuals and organizations from engaging with creative works. Educators, for instance, may hesitate to incorporate certain materials into their curricula, fearing that they may inadvertently violate a CC license, even when they are acting in good faith. This self-censorship erodes the very purpose of Creative Commons: to promote the free exchange of knowledge and creativity (Meese, 2018).

Furthermore, the financial implications of copyright trolling disproportionately affect marginalized groups who may lack the resources to mount a legal defense. This inequity perpetuates a cycle of exclusion, where only those with financial means can fully participate in the knowledge-sharing ecosystem. The very foundation of Creative Commons—its mission to democratize access to creative content—is at risk of being undermined by the very practices it sought to challenge (Cohen, Loren, Okediji, & O'Rourke, 2019).

In summary, the theoretical framework surrounding copyright trolling and Creative Commons licensing highlights the complex economic dynamics at play. The profit-driven motivations of trolls exploit vulnerabilities in both the legal system and the current licensing structure, leading to significant consequences for creators and users alike. The ambiguities within existing CC licenses provide fertile ground for misinterpretation and exploitation, ultimately undermining the core mission of promoting open access to knowledge and creativity. Addressing these challenges requires critically reevaluating the Creative Commons licensing model and the economic landscape supporting copyright trolling. By understanding the economic drivers behind these practices and analyzing the implications for both creators and users, we can begin to formulate effective policy reforms that protect the integrity of knowledge-sharing ecosystems. The need for clarity, protection, and equitable relationships in licensing agreements has never been more pressing, as the balance of power continues to tilt away from those who seek to share and innovate.

3. Policy Advocacy for Reform

3.1 Current Shortcomings in Creative Commons Licensing

Despite its noble intent to facilitate the sharing of knowledge and creativity, the CC licensing framework exhibits several critical shortcomings that hinder its effectiveness in the face of copyright trolling (Garcia, 2020). One of the primary issues is the inherent ambiguity in the language of many licenses, which can lead to misinterpretation by both users and copyright enforcers. For instance, terms like “non-commercial use” can be subject to varying interpretations, creating legal grey areas that trolls can exploit. This lack of clarity leaves users vulnerable to litigation and undermines creators' confidence in the sharing process (Linford, 2020).

Additionally, the existing CC licenses do not provide explicit protections against the predatory practices of copyright trolls. While the licenses aim to democratize access to creative works, they fail to shield users from the threat of aggressive legal action adequately. Many users may not fully understand their rights under these licenses, leading to a culture of fear where individuals hesitate to utilize shared works. Furthermore, the process for dispute resolution is not robust, leaving users with limited recourse if they find themselves facing unjust claims. These shortcomings create an environment that is counterproductive to the core mission of Creative Commons, which is to foster a collaborative and open culture (Sholder, 2020).

3.2 Proposed Reforms to Enhance User Protection

Several key reforms can be proposed to address the vulnerabilities inherent in the current CC licensing framework. Firstly, clarity in the language used in CC licenses is essential. Simplifying and standardizing the terminology can help mitigate misinterpretation and provide a more straightforward understanding of user rights and obligations. For example, explicitly defining what constitutes “non-commercial use” could eliminate ambiguities that trolls may exploit, thereby reducing the incidence of predatory claims.

Secondly, incorporating explicit anti-trolling provisions into the CC licensing framework could serve as a powerful deterrent against copyright trolling. Such provisions could include clear statements that protect users from frivolous claims and establish thresholds for legal action. By delineating acceptable uses and outlining penalties for unjust enforcement, these reforms would reinforce the protective aspect of CC licenses and restore user confidence in their rights (Brown & Marsden, 2023).

Furthermore, establishing a dedicated body for monitoring and enforcing compliance with Creative Commons licenses could greatly enhance user protection. This oversight body could provide resources for education and support, helping users navigate the complexities of copyright law and their rights under CC licenses. Additionally, it could serve as a mediator in disputes, offering legal assistance and guidance to users facing threats from copyright trolls. This proactive approach would help build a community supporting sharing and collaboration rather than fear and litigation (Savelyev, 2018).

3.3 Strategies for Maintaining Creator Incentives

While enhancing user protection is crucial, it is equally important to maintain incentives for creators to continue sharing their works. The fear that reforms might discourage creative output or diminish the value of their work must be addressed through careful policy design. One strategy is to implement a tiered licensing system that allows creators to choose the level of protection and sharing they are comfortable with. For example, creators could opt for licenses that allow for broader distribution while still retaining certain rights, enabling them to benefit from exposure without losing control over their works (Aufderheide & Jaszi, 2018).

Additionally, providing creators with clearer avenues for monetization could encourage them to share their works more freely. For instance, integrating licensing options that allow creators to receive royalties for certain uses could help balance the interests of sharing and financial compensation. This approach would incentivize creators to participate in the CC ecosystem and foster a more vibrant and diverse array of creative content available for public use (Keller, 2018).

Moreover, promoting awareness and education around the benefits of Creative Commons licensing can further encourage creators to engage with the system. By highlighting successful case studies of creators who have leveraged CC licenses to gain visibility and opportunities, advocates can demonstrate the potential advantages of open sharing. Workshops, webinars, and community initiatives can serve as platforms to inform creators about the protective measures available and the positive outcomes of participating in a collaborative environment (Dobusch & Kapeller, 2018).

4. Impact of Proposed Changes

4.1 Potential Effects on Knowledge-Sharing Ecosystems

The proposed reforms to Creative Commons licensing hold significant promise for revitalizing knowledge-sharing ecosystems. By introducing clearer language and explicit protections against copyright trolling, these reforms aim to foster an environment where creativity can flourish without the constant threat of legal repercussions. One of the most immediate effects would be an increase in user confidence. When individuals and organizations feel secure in their rights to utilize and share creative works, they are more likely to engage with those resources, leading to a broader and more vibrant exchange of ideas (Ekpe, 2022; Latilo, Uzougbo, Ugwu, & Oduro, 2024b).

Enhanced user protection can also encourage a culture of collaboration. When creators know that their rights are safeguarded, they are more likely to share their works openly, knowing they can benefit from community engagement without fear of exploitation. This shift could lead to a more dynamic creative landscape, where users contribute to and build upon each other's work, ultimately driving innovation. As knowledge-sharing ecosystems become more robust, they will facilitate diverse collaborations that can yield groundbreaking ideas and solutions, enriching society's cultural and intellectual fabric (de Beer, 2020).

Moreover, a healthier knowledge-sharing ecosystem can democratize access to information. With clearer CC licenses and stronger protections, marginalized groups—such as educators in underfunded institutions or independent artists—will be better positioned to access and utilize creative resources. This democratization promotes inclusivity and ensures that diverse voices and perspectives are represented in the broader cultural narrative (Linåker & Runeson, 2022).

4.2 Broader Implications for Copyright Law and Policy

The proposed changes to Creative Commons licensing also carry broader implications for copyright law and policy on a global scale. As copyright laws are increasingly scrutinized in the context of digital innovation, reforms that enhance clarity and protect users can set a precedent for legislative changes in other jurisdictions. By demonstrating that user-friendly frameworks can coexist with creator protections, advocates can push for reevaluating outdated copyright statutes that stifle creativity and collaboration.

Moreover, these reforms could influence how policymakers view copyright enforcement in general. By recognizing the detrimental effects of copyright trolling on knowledge sharing, there is an opportunity to advocate for a more balanced approach to copyright law that prioritizes the public interest alongside the rights of creators. This could lead to a more nuanced understanding of copyright that emphasizes educational and cultural benefits rather than solely focusing on punitive measures.

Furthermore, as digital platforms continue to evolve, the implications of these proposed changes extend to how content is shared and monetized in the online space. The rise of social media and user-generated content has fundamentally altered the landscape of creative expression. By adopting reforms that empower users and reduce the risks associated with sharing, we can encourage a new era of collaborative creativity that harnesses the potential of digital platforms while protecting the rights of creators (Latilo, Uzougbo, Ugwu, & Oduro, 2024a).

5. Conclusion

This paper has examined the critical need for reform within the CC licensing framework to address the pervasive issues of copyright trolling and its detrimental impact on knowledge sharing. Through a thorough analysis, we identified significant shortcomings in the current CC licenses, including ambiguities in language and a lack of explicit protections against predatory legal practices. These gaps create an environment where users—often educators, researchers, and independent creators—are vulnerable to exploitation, which ultimately undermines the very purpose of CC licenses: fostering an open culture of collaboration and creativity.

The economic drivers behind copyright trolling were explored, revealing how the profit motives of trolls exploit the complexities of copyright law to target individuals and organizations with limited resources for legal defense. The implications of these practices extend beyond mere financial burdens, as they foster a climate of fear that discourages users from engaging with creative works. This cycle of exploitation not only stifles innovation but also disproportionately affects marginalized communities, further entrenching inequalities in access to knowledge and creative resources.

5.1 Policy Recommendations for Stakeholders

Based on the findings of this study, several key policy recommendations are proposed for stakeholders, including lawmakers, Creative Commons organizations, and community advocates. First, clarity in licensing language is crucial; revisions should eliminate ambiguities, particularly concerning terms like "non-commercial use." Standardizing definitions and providing explicit guidelines on acceptable usage would empower users to engage confidently with creative works. Additionally, incorporating anti-trolling provisions is essential to protect users from frivolous legal claims. Establishing clear thresholds for enforcement and outlining penalties for unjust claims will serve as a deterrent against copyright trolling, thereby safeguarding the rights of individuals who wish to utilize shared resources.

Further, establishing a dedicated oversight body is recommended to monitor compliance with CC licenses and provide resources for users. This entity could offer legal assistance, mediate disputes, and enhance public understanding of users' rights and responsibilities, fostering a supportive knowledge-sharing community. Implementing a tiered licensing system would allow creators to choose their level of protection, effectively balancing user access with the desire for financial compensation. Lastly, increasing awareness through education and outreach campaigns is vital. These initiatives can demystify the licensing process, empowering more individuals to utilize shared resources and contribute to collaborative projects, ultimately enriching the knowledge-sharing ecosystem.

Compliance with ethical standards

Disclosure of conflict of interest.

All authors have no conflict of interest

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