

Public Service Publisher - A Rights Model

A response, to the Ofcom discussion document, ‘A new approach to public service content in the digital media age - The potential role of the Public Service Publisher’.¹

By: Nicholas Bentley²

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Introduction

In the Executive Summary Ofcom lays out an exciting and ambitious view of a Public Service Publisher (PSP) that could take advantage of the multi-media, multi-contributor, on-line, digital world of the future. A PSP that commissions content of public value and provides new services with social value. A significant facet of this vision calls for a new rights model to support “share-aware” content in an interactive environment:

“Second, a more radical rights model could be designed specifically for an organisation delivering public purposes in new ways. Overall, we believe that the PSP should be “share-aware” – meaning that the rights exploitation model should embrace the reality of a participatory media environment, and not struggle against it. In particular, this means that alternative open licensing models – which allow content to be re-used and modified by others – are likely to be more appropriate for the PSP than traditional rights models.”³

This submission introduces the Rights Office system that could go a long way towards addressing this need for a participatory rights model. The principle feature of the Rights office system is that it emphasizes the regulation of individual usage rights, rather than the traditional limitation on copies, as a means to provide a balanced environment for trading and sharing intellectual content. Under this system, every Intellectual Contribution⁴, whether from a commercial media supplier or private individual, is viewed as a valuable part of the fabric of a continuously expanding social environment of information and knowledge sharing. The flexibility of the Rights Office system allows the value of these contributions to be rewarded in a variety of ways, from contracted commercial payments through to simple social recognition of an individual input, while keeping the flow of ideas unencumbered by technological restrictions.

The first section introduces the on-line, distributed, structure of the Rights Office system where every user is assumed to have rights to content and these rights can be clearly

identified. Recognition and recording of these rights under the Rights Office system establishes a fair and secure trading environment that respects individual privacy and guarantees a minimum access to intellectual works for the benefit of society as a whole.

Next, by way of an example, it is demonstrated how Right Office licenses might be applied to PSP content and how the mix of commercial, private, and “share-aware” products can be accommodated. The ‘City Confidential’ illustration is used for this example.

Finally, the benefits and hurdles for such a rights structure are discussed with an emphasis on viewing the PSP model in a global environment of social exchange of information products rather than an isolated public service community.

Rights Office System

The Rights Office system is a distributed, on-line, registration and trading environment for rights to intellectual content. For a broad view of the philosophy that led to the development of the Rights Office system the paper Trading Rights to Digital Content⁵ is recommended and a short abstract follows:

“Trading rights to digital content is a review of the use of an Intellectual Contributions model for defining how an intellectual work is produced and distributed and the role of all users and contributors in this production chain. Examination of the contributions model demonstrates how traditional copyright uses the proxy of copies as a means to link intangible expression to the tangible world, how, in turn, this allows trading of copyrighted works, and why this linkage breaks down when digital copies are the transmission medium. Further analysis of this contributions model suggests that DRM in the form of technological protection measures is not an ideal solution and that an alternative regime, where individual rights to the creative work are allocated, regulated and traded, might be a productive route forward. The paper concludes by presenting a distributed ‘Rights Office’ system that would facilitate a practical, Internet based, implementation of this trade in rights and offers new business models while protecting the availability of intellectual works for the overall benefit of society.”

The rest of this section gives a brief overview of the Rights Office system operation and its primary features.

Contributions to the field of creative and intellectual works take on a very broad meaning in the Rights Office system. An original creative work is obviously a valuable contribution however paying for a copy of this work is also taken to be a contribution. Even a citation of an existing work is considered a contribution to the work hence the identification of contributions and the rights of those making these contributions needs to take on a new level of importance. In the Rights Office system, all contribution rights to an intellectual work (content) are recorded in permanent, secure, locations on the Internet (see figure 1.). The Rights Office system allocates dual identifiers to each work and further identifiers to any subsequent manifestations of the work. These identifiers are in the form of unique, persistent, Universal Resource Identifiers (URI)⁶. [To keep things simple and by way of example this section describes how an author and a consumer will record rights to an intellectual work

however the system is not limited to authors and consumers, any 'value adding' user including publishers and distributors can participate in the exchange.].

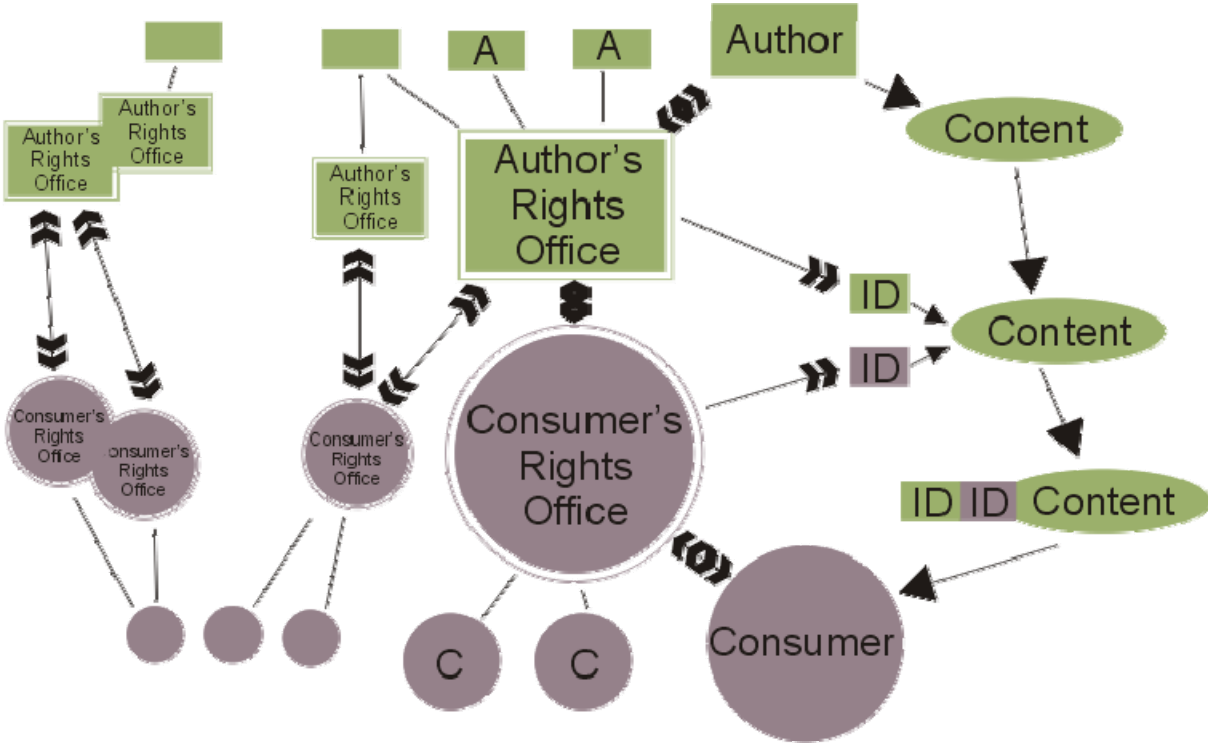


Figure 1. – The Rights Office System

As content is transferred from author to consumer a right of access to that content is also transferred and the system goes through the following steps to achieve this transfer:

- Two rights identifiers (IDs) are created; one for the author, recorded in the Authors Rights Office database (ARO), and one for the consumer, recorded in the Consumers Rights Office database (CRO).
- The Author Office and the Consumer Office exchange and record each other's identifiers (IDs), thus linking the transfer of rights to the work. The combination of these two identifiers is known as the Product Rights Descriptor (PRD). Thereafter, any copy of this manifestation will, as it goes through life, contain the unique PRD it was assigned.

After this exchange has been completed unlimited copies of this manifestation in the name of this registered consumer are allowed providing that the identifications and the work remain unmodified and intact.

Note some of the characteristics of the Rights Office system. The Author Rights Office (ARO) acts solely in the interests of the primary rights holder and the Consumer Rights Office (CRO) acts for the consumer. In this way the rights of all players in the contribution chain are held independently with mutual recording of each other's rights thus maintaining privacy and independence. Every manifestation of the work will have two identifications (URIs) associated with it that will uniquely identify the entitled rights holders, the rights offices, the intellectual work, and provide links to metadata but to no other information.

Another characteristic is that there will be any number of Rights Offices. Creators, artists, publishers, distributors, consumers, any user, can choose a Rights Office best suited to their needs. Standardization comes in the form of the protocol used for the secure exchange of rights between Rights Offices that can be viewed as a rights management application layer on the Internet. Indeed, the PSP might operate or be supported by a Rights Office that identifies (licenses) PSP works and identifies the collective audience that makes up the community covered by the PSP.

The licenses referred to by the digitally identified manifestations of the intellectual works and articulated by the rights offices will clearly and concisely define how the works can be used and how they should be regulated. The standard terms that are the foundation of these licenses should make it clear to everyone what can and cannot be done. For example:

- The intellectual component of the digital product is not allowed to be reproduced separately from the dual identifiers known collectively as the Product Rights Descriptor (PRD). This rule would be mostly self-regulating as it will be legal for anyone to possess a properly identified product, so why would anyone make the copy illegal by removing the PRD?
- The consumer who owns an identified manifestation of a digital work may pass on a copy to another consumer, but this third party has no rights over the physical digital product, only the unregulated right⁷ to access the intellectual component. This third party has no rights to make copies, pass on the work, or do anything else with the item.
- No one can pass-on or trade rights to a work unless they have the rights to do so; the right to distribute rights.
- The digital work can be converted from one digital medium to another providing both media support the PRD structure and the intellectual content and its PRD are not modified in the process.

The change in priorities between traditional analogue copyright and the Rights Office system can be summed-up as follows:

- Under copyright copies are traded while under the rights office system rights are traded.
- Copyright allows unlimited distribution of a single item but has strict limits on copying. While rights office allows unlimited copying for all rights holders, including rights holding consumers, but no distribution or copying for any non-rights holders.

The right to take in or access the content remains unregulated⁸ under both systems although this right is clearly expressed in the Rights Office environment.

Under the Rights Office system author rights are securely recorded in the system of Rights Offices on the Internet and no Technical Protection Measures (TPM) are necessary in consumer rendering equipment thus allowing any available technology to be used to reproduce the content. This obviously has the advantage of reducing end-user equipment costs and complexity, easing use, and freeing up content for social benefit and share-aware uses. The question is then, how will the Rights Office system promote the continued support and financial reward of authors, contributors, and content suppliers in general?

The issue of incentives-to-buy and reward content creators in the Rights Office system is a question of balance; will there be sufficient remunerated use compared to the unremunerated use of the product? Analogue copyright relied on this balance; will enough people buy their own copy of the book from the right holder compared to the second hand sales and lending of the book?

The Rights Office system promotes the balance of remunerated and unremunerated use by relying on three important features of the Rights Office environment:

- Because rights are the trading commodity copies will tend to have no value in the Rights Office system. This is a difficult concept for most people coming from the physical world of analogue copyright but it is a fundamental point;
- Copies will also tend to remain properly identified and hence always identify the rights holders with the chance that someone coming into possession of the copy will contribute; and
- Identified copies will have a competitive advantage over illegal unidentified copies and over copies protected with TPMs.⁹

The new balance that has to be struck in the Rights Office system is between the incentives to own rights to a work compared to having access to a work for which you have no rights. The incentives to own rights to the work can be listed as follows:

1. Direct Benefits:

- Permanent right of access to the work – a long-term investment.
- No limit on number of copies made to provide access.¹⁰
- Peer-to-peer networks can be used to provide best access for rights holders.
- Freedom to create transformative or derivative works. (There are rules for commercial use of these works.)
- Clear rules that make illegal use obvious.

2. Moral Advantage:

- Ability to demonstrate a right to the work.
- Ability to demonstrate support for the artist.

3. Dynamic Benefits – Intellectual Contributions is seen as a dynamic environment of evolving works and creativity and the Rights Office system is optimized for this ongoing interaction. For example a referral model could be established where one consumer persuades a friend to buy a copy the original consumer could obtain a small referral refund.

While there is no functional Rights Office system to test this model there is a wide range of indirect evidence that an open system of content exchange might be a viable solution:

- There are a number of open licenses produced by the Creative Commons¹¹ that are now used worldwide by many artists and authors.
- Much software is distributed under free licenses such GNU General Public License¹².
- There are on-line music services that already distribute copyrighted content without technical protection measures¹³.

- There are fan-supported groups where loyal supporters ensure a good base of purchased products and even pre-buy new works to aid production costs¹⁴.
- There are Internet sites with community generated content¹⁵.
- Some of today's misuse of content could be reduced by clear copying rules that could be more easily enforced.

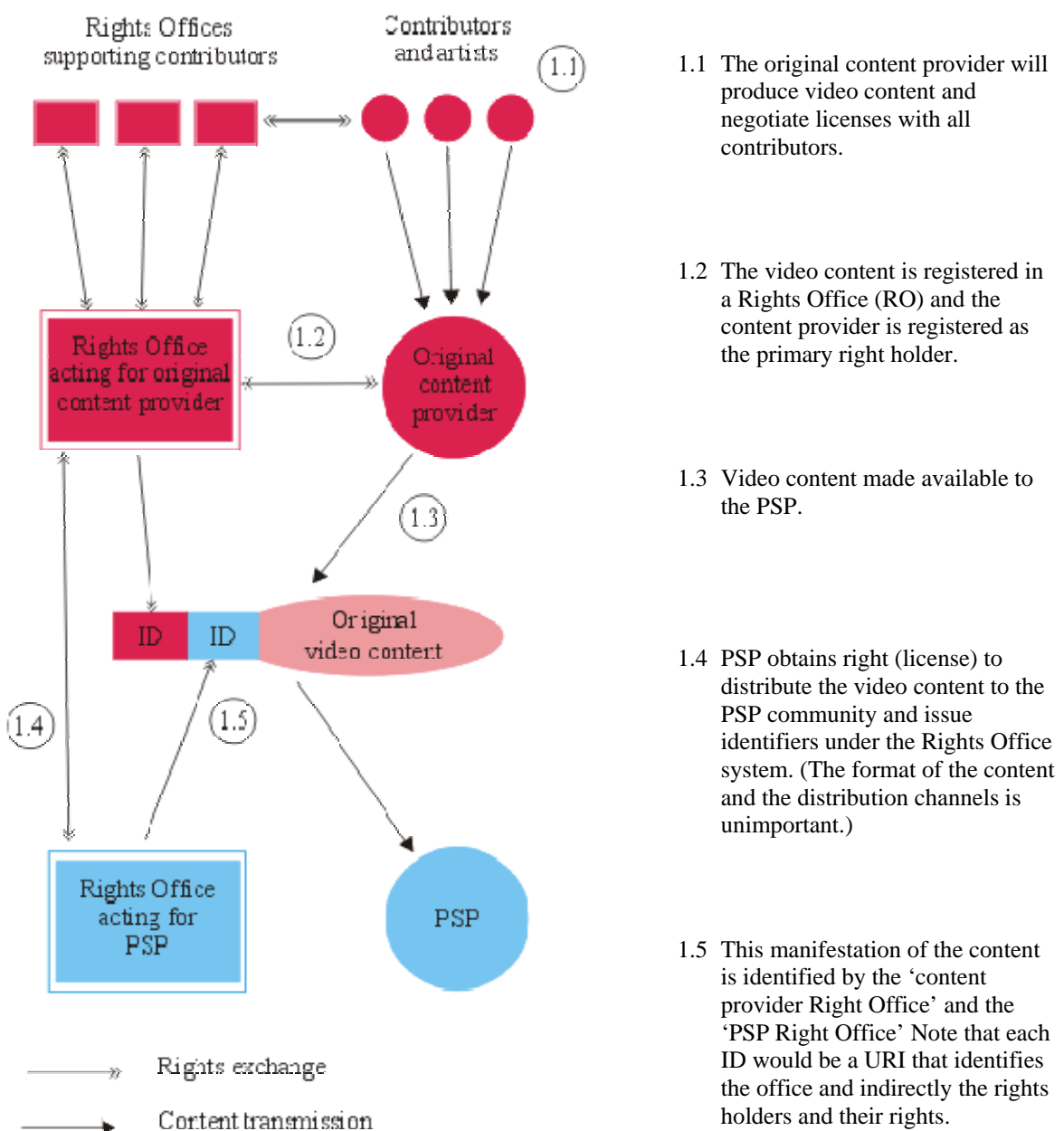
In the PSP environment there would probably be public funding or a tax / levy scheme to finance much of the original content and the onus on the Rights Office environment would be to inhibit unauthorised third-party commercial exploitation of this content and support community contributions that extend the range and value of this content. The next section demonstrates how Rights Office licenses and identifiers would be applied to the various stages of content production and distribution and how this would protect and reward content providers.

Applying the Rights Office model to PSP content

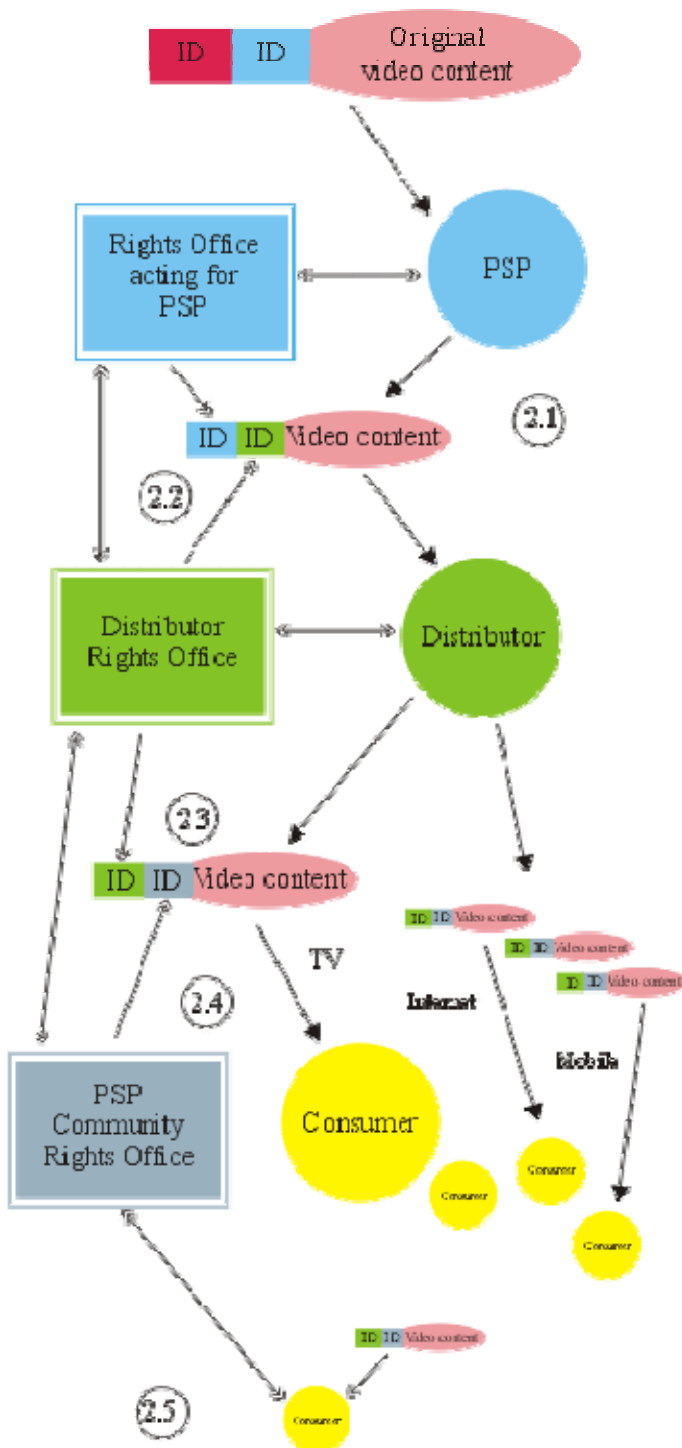
This section demonstrates the combination of Rights Office licenses and identifiers as they might be applied to the 'City Confidential' example of multi-party exploitation of public service content.

'City Confidential' is a participative drama taking place online and in cities across the UK. A number of different types of content could spring up around this idea and many licenses and Rights Offices would be involved in the various stages of production, distribution and reuse.

1. The original video content generated by the content producer commissioned by the PSP – with different versions for different areas of the UK



2. *Repurposed and re-versioned editions of the video content for distribution on a number of platforms – whether TV, internet or mobile.*



2.1 The PSP passes on the content to and establishes licenses with distributor(s).

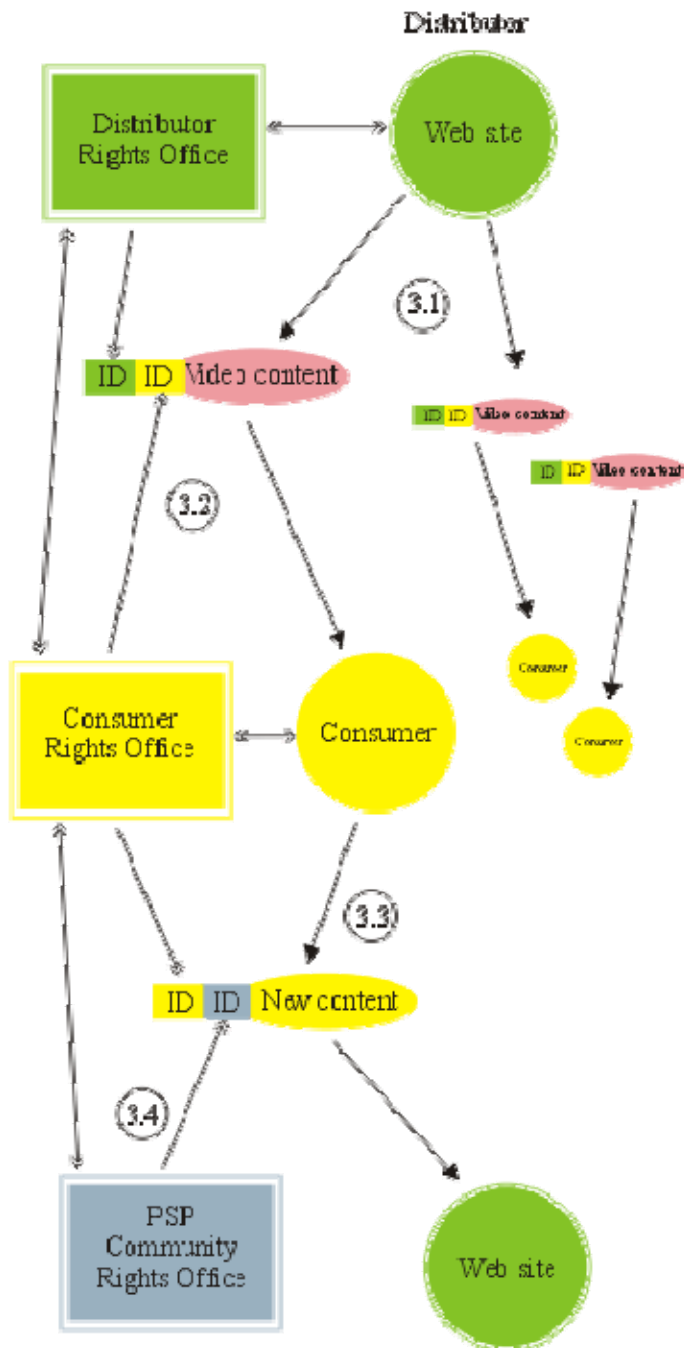
2.2 New identifiers are issued by both the PSP and distributor Rights Offices.

2.3 Various distribution mediums might be used and each time a new distribution is made new identifiers (ID) are issued and distributed with the content.

2.4 When content is distributed to a group or community there would be a Rights Office representing that community. In this example the PSP might operate a Rights Office to support the PSP community (the UK audience).

2.5 If necessary the consumers could verify their right to receive the community content by following the PSP ID link to the 'PSP consumer Rights office'.

3. A supporting website, that carries the video content, allows access to audio and video podcasts, and allows users to contribute content about their city and the challenges it faces.



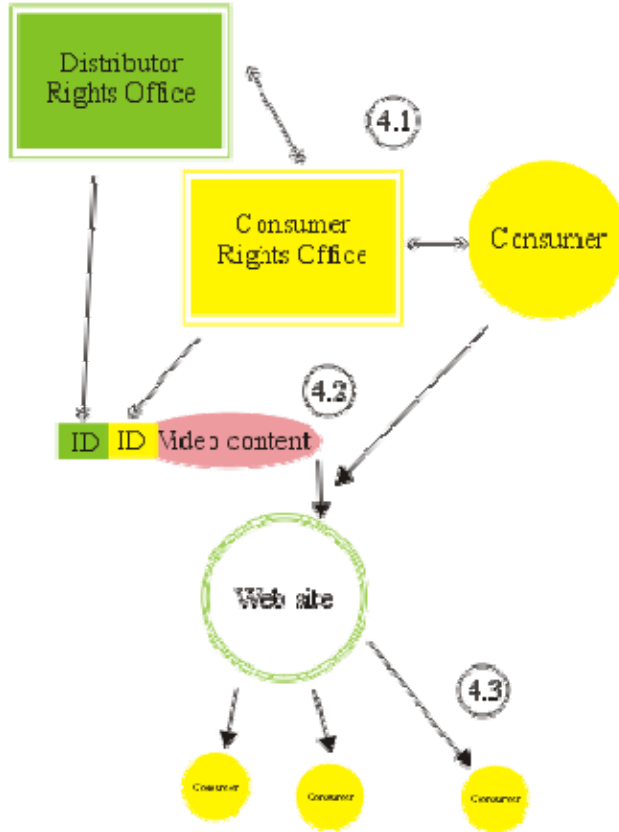
3.1 The distributor makes content available via a Web site or podcast.

3.2 Each distribution of the content might be licensed to individual consumers and the rights of these consumers registered by the 'Distributor Rights Office' and the 'Consumer Rights Office'. Again new identifiers are issued for the unique manifestation.

3.3 A consumer might modify the original content or produce new content for their city and post it to the Web site. (Referring to the license terms by following the URI ID to the issuing Rights Office would confirm that derivative works are allowed.)

3.4 The consumer's rights to this new content are recorded in the 'Consumer rights Office' and the 'PSP Rights Office' would record the community right to access the content as it gets posted back to the Web site. Standard license terms would be used to make it available to the community.

4. *City Confidential content could also be used on other websites – e.g. a user operating a website about (say) Cardiff could use and modify the City Confidential content for use on the site.*

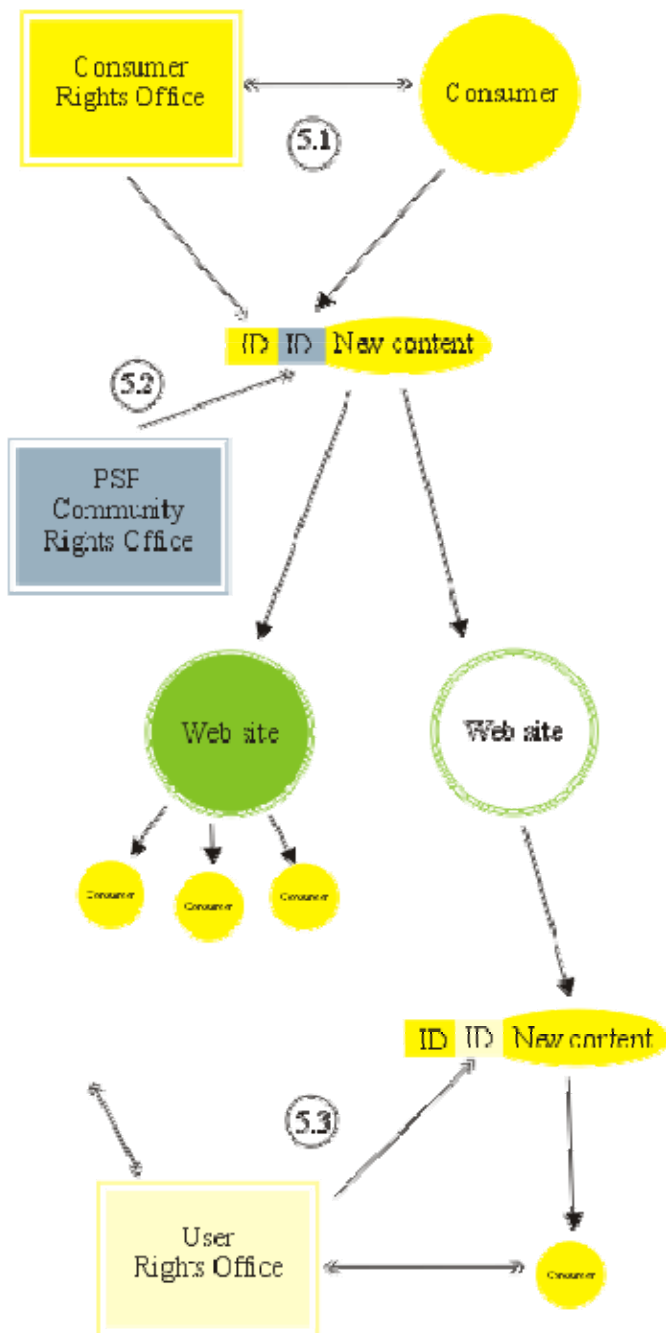


4.1 The original PSP license ID would allow the consumer (user) to re-post the content to their local 'city' Web site..

4.2 All content re-posted in this fashion would carry the original license identifiers. (Posting the content without the IDs would be breaking the terms of the license.)

4.3 Other users accessing this content via the Web site would not receive any rights to this content other than the unregulated right to view the content. They would have no rights to copy the content or re-post it.

5. Computer software – such as games and / or local information content – that addresses the themes and localities of City Confidential.

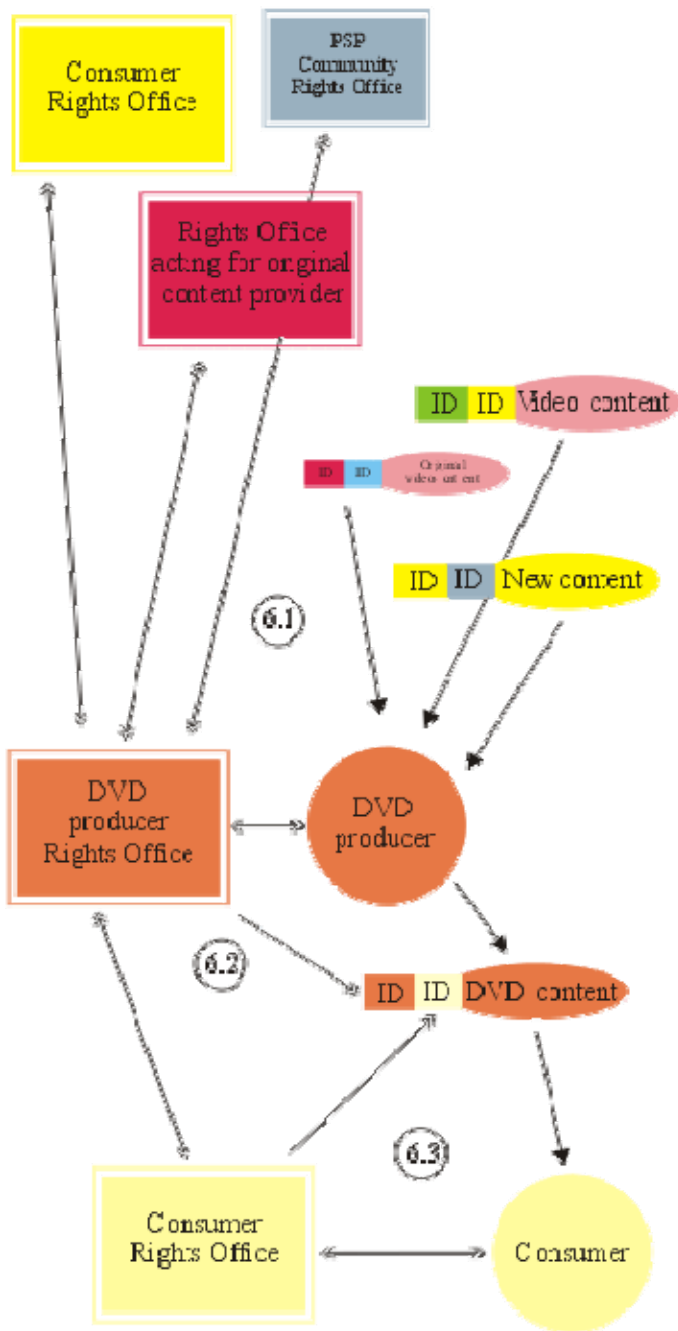


5.1 Rights to any new content produced by any user would belong to that user and the Rights Office system would be used to register and administer those rights.

5.2 The new right holder might choose to make the content available to the PSP community in which case the 'PSP community Rights Office' would make a registration.

5.3 And/or, the right holder could issue the content to another user with a registration via her own 'Consumer Rights Office' and another Rights Office used by this new user.

6. A range of DVD content – collating the linear video produced by the original content creator, as well as the video blogs and contributions made by users.



6.1 A DVD producer would bring together a collection of content and negotiate licenses with all the creators and original right holders. This task could be simplified in the Rights Office environment because there would be a trail of registered right holders and the possibility of some standard licenses being available.

6.2 New Rights office identifiers are issued that cover license terms of this new combination of content.

6.3 The process continues with the issuing of new identifiers and licenses to new users.

Implications of Rights Office licenses in the PSP and global environment

The above illustration demonstrates how the Rights Office system could provide the backbone to fulfil the PSP vision:

"All of these pieces of content can deliver commercial and public service value. In a controlled rights environment, exploitation would be centred around the commissioner of the original content, the producer, and other clearly-defined licensees. In the PSP environment, all of these opportunities would still be available – but a broader range could also arise: open access would allow a greater number of users and providers to develop content around the original proposition. Some of these would be freely-available, others (like some of the above) may be premium paid-for products. Overall, the potential would exist for rich experiences for audiences – as discussed below, this would be allied with a fair commercial return for the original rights-holder."

A backbone of community, group and individual identified licenses with the emphasis on digitally managing and regulating the rights to the content and not the content itself. In this way the Rights Office system directly addresses the traditional 'all rights reserved' issue raised in section 5.20:

"In order to side-step these issues and to maximise public benefit, it is important that everything which the PSP does should be "share-aware" – meaning that the rights exploitation model should embrace the reality of a participative media environment, and not struggle against it. It may therefore be more appropriate for the PSP to adopt a more open licensing model. These differ from the traditional model in one key way – in that they express fully the uses which are allowed, rather than assuming that all rights are reserved. This is the key difference that makes open models more appropriate to the participatory media environment than traditional rights models."

However, the Rights Office model is not limited to public service content and should not be restricted in this way. It should be seen as a ubiquitous system for all types of content in a global market. The key feature of the Rights Office system that distinguishes it from other open models such as Creative Commons and GNU General Public License is that it recognises and tackles the hard problem of regulating rights of all individual users and contributors. This requires a complex system of licenses and right registration however this complexity would be hidden from the average user:

- In the 'City Confidential' example the average consumer could just accept and then ignore the 'group casting' license as they sit back and consume the content just as if they were watching traditional broadcast television. If they started reusing the content, transforming and/or reposting it, a simple user interface could remind them of their license obligations that would be clearly defined in various Rights Offices, and would even protect their contribution by automatically allocating a rights registration to their new work.
- No special hardware or technological protection measures are required. At the consumer/user level the most that would be required is a software interface to interact with on-line rights offices.

- License negotiations at a commercial level would be much more complicated but no more so than today and with the advantage of a formal structure for registering and resolving the rights of multiple players.

The Right Office model is also totally granular so that a right enjoyed by one user in no way inhibits the rights of the original author or any other user. Commercial and public media can coexist in one environment and even the transition from one sector to another can be handled depending on the priorities at the time. Contributors are identified so that they can be rewarded for their contribution and the opaque identifiers assure privacy and security for individuals. With each new manifestation the license terms for the multiple contributions to a product are resolved into one new identified license but individual contributions can still be identified at a later stage and new terms negotiated for a new product if necessary (see the 'city' DVD example in section 6 above).

Conclusions

The Ofcom report recognises that the traditional 'all rights reserved' policy as an issue in an open 'share-aware' environment and the Rights Office system could help address this problem. The Rights Office system would help in this area by specifically granting rights to all users, including consumers, and defining all these rights so that it is absolutely clear what can and can not be done. The involvement of all users equally in the rights management system helps to maintain the important balance between rewarded and unrewarded use of copyrighted content by social awareness rather than a reliance of technical and legal restrictions.

It is envisaged that RO would adopt a standard set of licenses for general use by the average consumer and at the same time support complex detailed licenses for the exchange of works between media professionals. The heterogeneous nature of the Rights Office system, where distributed license offices handle the needs of all participants, is important in that it allows a mixed commercial/non-commercial environment which will probably be the key to collaborative media projects in the digital future.

The Rights Office system was not designed specifically with public service content in mind but rather as a global model for distributing content while recognising and rewarding the authors and creators. However use by the PSP project could be the ideal opportunity to develop the Rights Office model because the initial content could be paid for publicly, or at least generated with a community share alike spirit in mind, and contracts could be written take full advantage of the 'Intellectual Contributions' principles.

Product Rights Descriptor

The following two URLs make up the Property Rights Descriptor (PRD) for this document:-

<http://www.commonrights.com/RightsOffice/ARO-129.htm#ARO1>
<http://www.commonrights.com/RightsOffice/CRO-1200-CRO1.htm>

This PRD identifies the rights holders of this document and the associated licenses. This document should not be reproduced without this PRD identification.

Notes and Reference

¹ A new approach to public service content in the digital media age, Ofcom, <http://www.ofcom.org.uk/consult/condocs/pspnewapproach/newapproach.pdf>

² Nicholas Bentley, Common Rights, <http://www.commonrights.com/>

³ A new approach to public content in the digital media age, section 1.29, Ofcom, <http://www.ofcom.org.uk/consult/condocs/pspnewapproach/newapproach.pdf>

⁴ Intellectual Contributions, http://www.omidyar.net/group/intellectual-contributions/ws/trading_rights_to_digital_content/#intellectual-contributions

⁵ Trading Rights to Digital Content, May 2006, Nicholas Bentley, http://www.omidyar.net/group/intellectual-contributions/ws/trading_rights_to_digital_content/

⁶ Universal Resource Identifier, http://en.wikipedia.org/wiki/Uniform_Resource_Identifier

⁷ "For example, the public has had, under current law, and should have, a right to read. Until recently, this wasn't even questionable. Copyright owners' rights did not extend to reading, listening, or viewing any more than they extended to private performances.", Litman 1996. Revising Copyright Law for the Information Age. 75 Oregon Law Review 19. http://www.msen.com/~litman/revi_sing.htm

⁸ "To read is not a fair use; it's an unregulated use", Lessig 2002, Lawrence Lessig's address to the Open Source Convention, 24 July, 2002. Lawrence Lessig is professor of law at Stanford University.

⁹ Evolutionary Theory and DIPR, <http://www.omidyar.net/group/intellectual-contributions/ws/Evolutionary%20Theory%20and%20DIPR/>

¹⁰ "Our survey results support the statement that consumers are indeed willing to pay for music files that offer them flexible usage rights. When asked to decide between alternative A: "A song that you can only copy once and burn three times for 50 cents" and alternative B: "A song you can do whatever you want with for 1 ", almost two thirds of the respondents decided for the more expensive alternative B with more usage rights (see figure 4.2).", Digital Music Usage an DRM, European Consumer Survey [[Indicare-2005](#)]

¹¹ Creative Commons, <http://creativecommons.org/>

¹² GNU General Public License, <http://www.gnu.org/licenses/gpl.html>

¹³ Amie Street, <http://amiestreet.com/page/what-is-amie-street>

¹⁴ Sell a Band, <http://www.sellaband.com/>

¹⁵ Wikipedia, <http://www.wikipedia.org/>