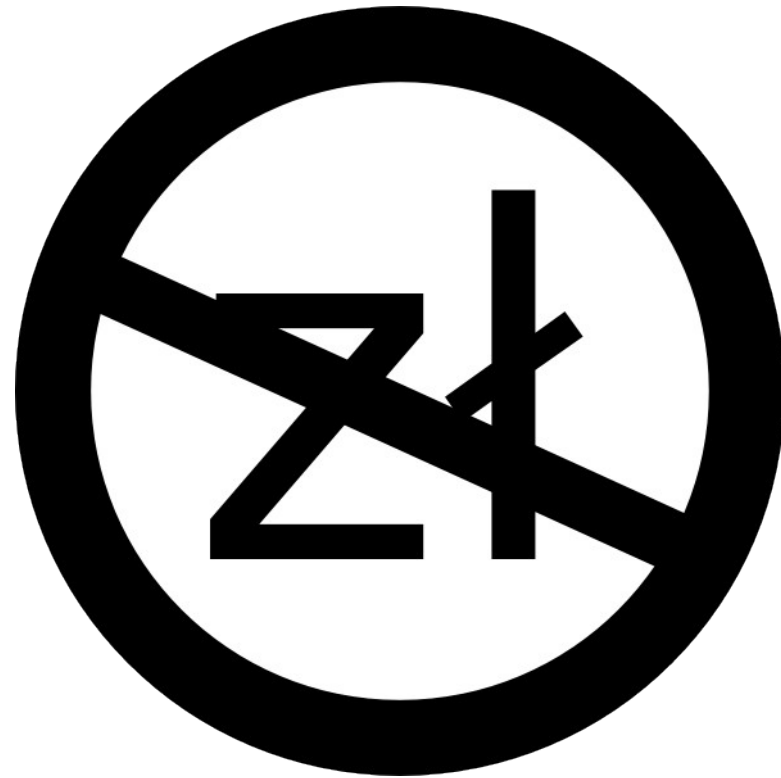# The definition and future of noncommercial

Mike Linksvayer

Creative Commons

2011-09-17

Noncommercial — You may not use this work for commercial purposes.

b. You may not exercise any of the rights granted to You in Section 3 above in any manner that is primarily intended for or directed toward commercial advantage or private monetary compensation. The exchange of the Work for other copyrighted works by means of digital file-sharing or otherwise shall not be considered to be intended for or directed toward commercial advantage or private monetary compensation, provided there is no payment of any monetary compensation in connection with the exchange of copyrighted works.

We did a study of NC back in 2009, found licensors say they are somewhat liberal in expectations of what licensees will do, licensees say they are somewhat conservative in interpreting what they have permission to do; these help explain lack of disputes, form good practices for using (or not) NC

Long term (slow) trend toward lower NC proportion of total license use; maybe NC does work as gateway to more substantial openness
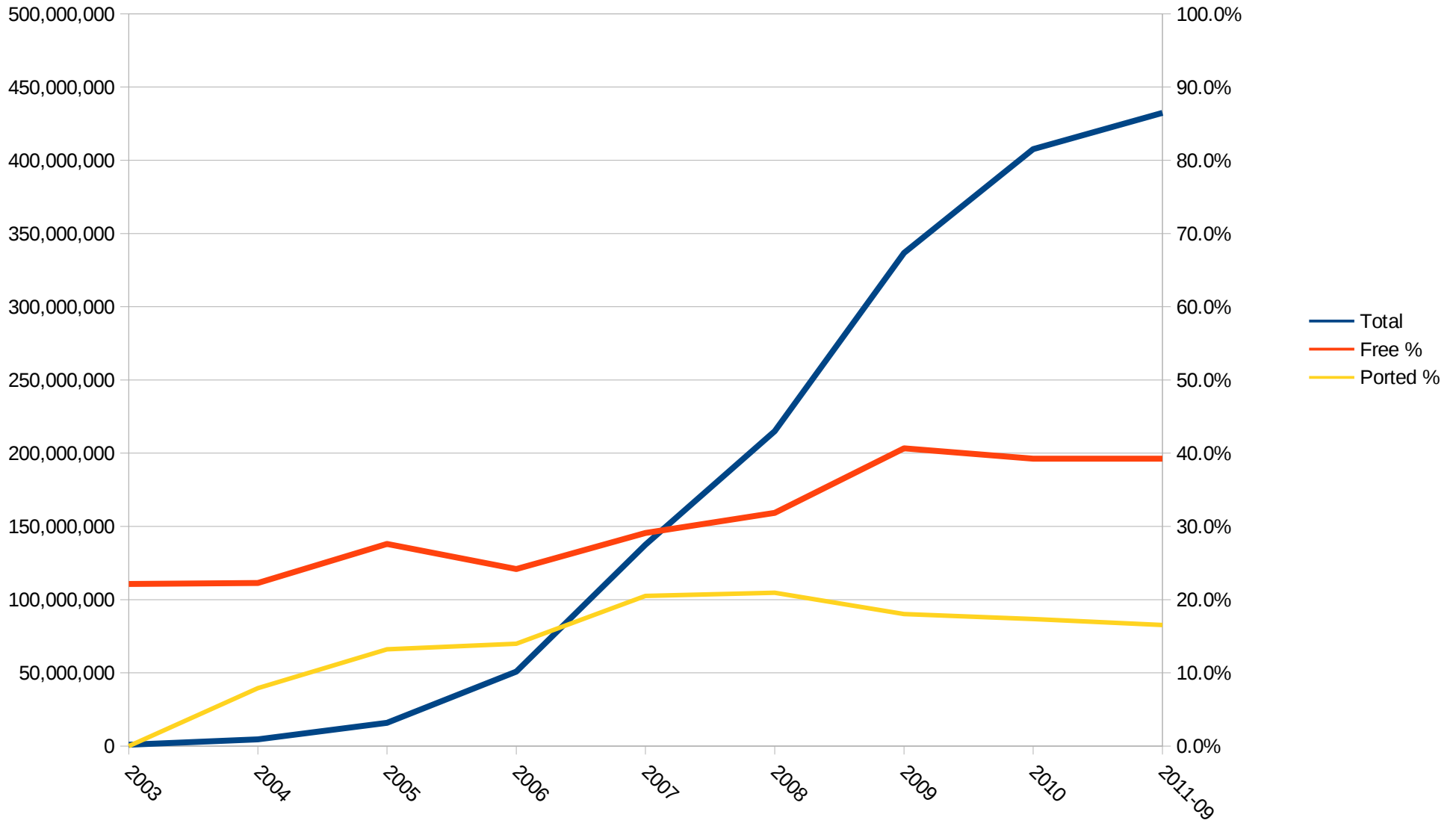
Conservative users such as traditional publishers and collecting societies continue to experiment with NC
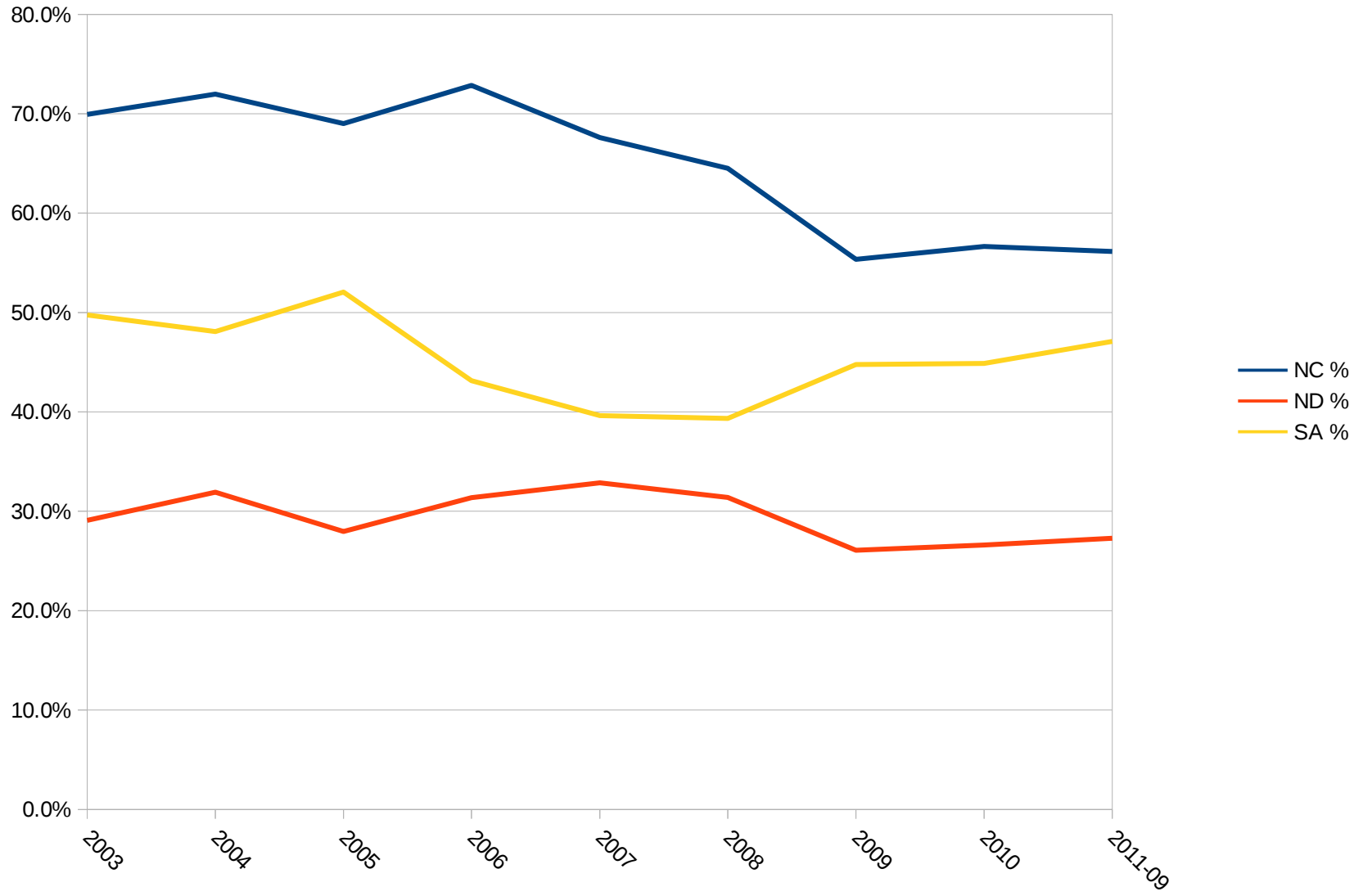
All this indicates NC working, easy conclusion for 4.0: (0) don't change anything about NC

Creative Commons works at year end

% fully free/libre/open and % ported

License property use at year end

However, 4.0 is a once-in-a-decade-or-more (we hope) opportunity; such an important part of the license suite must receive more scrutiny, range of options explored

Small disputes and misunderstandings about NC are all over, just rarely valuable enough to go to court?

Lack of well understood definition harmful to reputation of CC? How many times have I heard "nobody knows what it means?" Many.

Flexible definition barrier to conservative use, want to not use or define restrictively

Still CC NC sounds appealing, probably overused by those without existing revenue stream to protect

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Many arguments against using NC well known, not reviewed here; see http://.freedomdefined.org/Licenses/NC

NC problematic from commons license steward perspective:

Built-in non-interoperability among licenses in CC suite

Under-use of non-NC licenses, which realize far more value (projects *rely* on free licenses to exist; making available online doesn't require a public license)

For (the commons)

© would be far less problematic if noncommercial (any definition) sharing not restricted; push that norm

For (against commerce)

Exclude commerce from society; prevent exploitation

For (commerce)

Promise to not persecute fans, but protect some traditional proprietary licensing revenues

For (choice)

CC doesn't know what freedom means in various communities, which need to discover such for themselves; artists might think noncommercial is correct for them

re communities

Free software didn't immediately arrive at any use, any user – confusion about price and freedom, Linux first released under NC terms

OA, OER, PSI, others converging on similar (excluding NC) definitions

Possible any use, any user a sweet spot for intellectual commons, for all communities
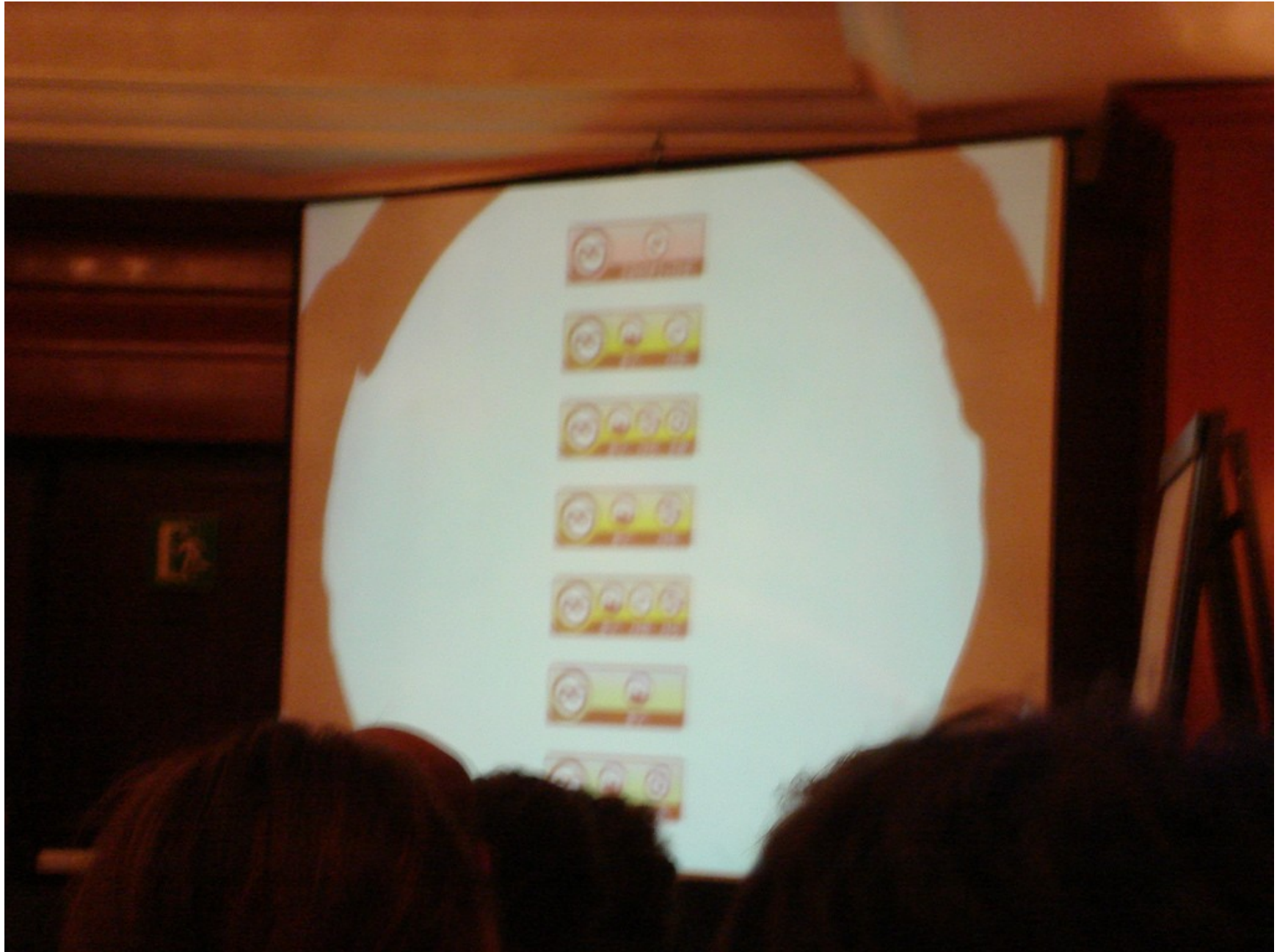
Provocative alternatives to status quo for 4.0

(1) Don't version NC licenses, eventually hide option from chooser, formally retire

(2) Drop BY-NC-SA and BY-NC-ND to simplify suite

(3) Support NC licenses, but rebrand as something other than CC; move to non-creativecommons.org domain would be strongest

(4) Clarify definition of NC (e.g., match conservative user wish; pointed out earlier more thorough definition in license could be useful for global license)

(1) Don't version NC licenses, eventually hide option from chooser, formally retire

(2) Drop BY-NC-SA and BY-NC-ND to simplify suite

(1) has been much requested, discussed, but never terribly actionable; should it become something discussed in serious company?

(3) Support NC licenses, but rebrand as something other than CC; move to non-creativecommons.org domain would be strongest

(4) Clarify definition of NC (e.g., match conservative user wish; pointed out earlier more thorough definition in license could be useful for global license)

(3) and (4) increase the range of suite (covering more restrictive ground), differentiation within suite (branding and legal), and clarity

Pros & cons

Non-exhaustive

Most have flipside

Commons

Pro: address (and/or further leverage) incompatibility

Con: dilute inclusiveness of brand

Licensors and licensees

Pro: increase certainty

Con: cost for/resistance from existing NC users

4.0 is a once-in-a-decade-or-more (we hope) opportunity; such an important part of the license suite must receive more scrutiny, range of options explored

discuss