

# Guide to Creative Commons for Scholarly Publications and Educational Resources



samenwerkingsverband  
universiteitsbibliotheken &  
koninklijke bibliotheek



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# 1

## About this guide

This guide wants to inform researchers about the Creative Commons (CC) licence system. What licence to choose when publishing a paper or book or sharing an article through a repository? And what licence to apply when sharing your teaching materials? The guide wants to help choose the right licence by addressing several frequently asked questions and common concerns expressed by about the use of CC licences.

Ever since the first definitions of open access were drafted, back in the early 2000s, Open Access was not only about the free availability of publications to read. It was also about reusing. [The Budapest Open Access Initiative \(2002\)](#) stated:

“by ‘open access’ [...] we mean its free availability on the public internet, permitting any users to read, download, copy, **distribute**, print, search, or link to the full texts of these articles, crawl them for indexing, pass them as data to software, or use them for any other lawful purpose, without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself.”

CC licences have been developed to provide a clear legal framework to underpin the open online sharing and reuse of creative **works**. For researchers this often means scholarly papers, books or chapters. When you publish ‘open access’ most publishers will ask you to choose a CC licence for your work. Increasingly, also funders have requirements as to which CC licence has to be applied, because they want to make sure that the research they fund is reused as widely as possible.

This guide is adapted from a guide that was written a few years ago for researchers based in the UK. We have updated it such that we hope it will be useful for researchers in the Netherlands. Whenever useful we refer specifically to the Dutch context.

### Creative Commons

Creative Commons (CC) is an international not-for-profit organisation publicly launched in December 2002 that aims to improve clarity about what people can do with published content. For researchers, this generally means academic books or journal articles, but CC licences are used by all kinds of content creators – photographers, musicians, artists, Wikipedia contributors and people collecting data, to give just a few examples. The CC licences are in constant development – the licences are now on version 4.0 which was launched in 2013.

**More information about open access in the Netherlands and funder requirements can be found on [www.openaccess.nl](http://www.openaccess.nl) and the websites of NWO, ZonMw or the European Commission.**

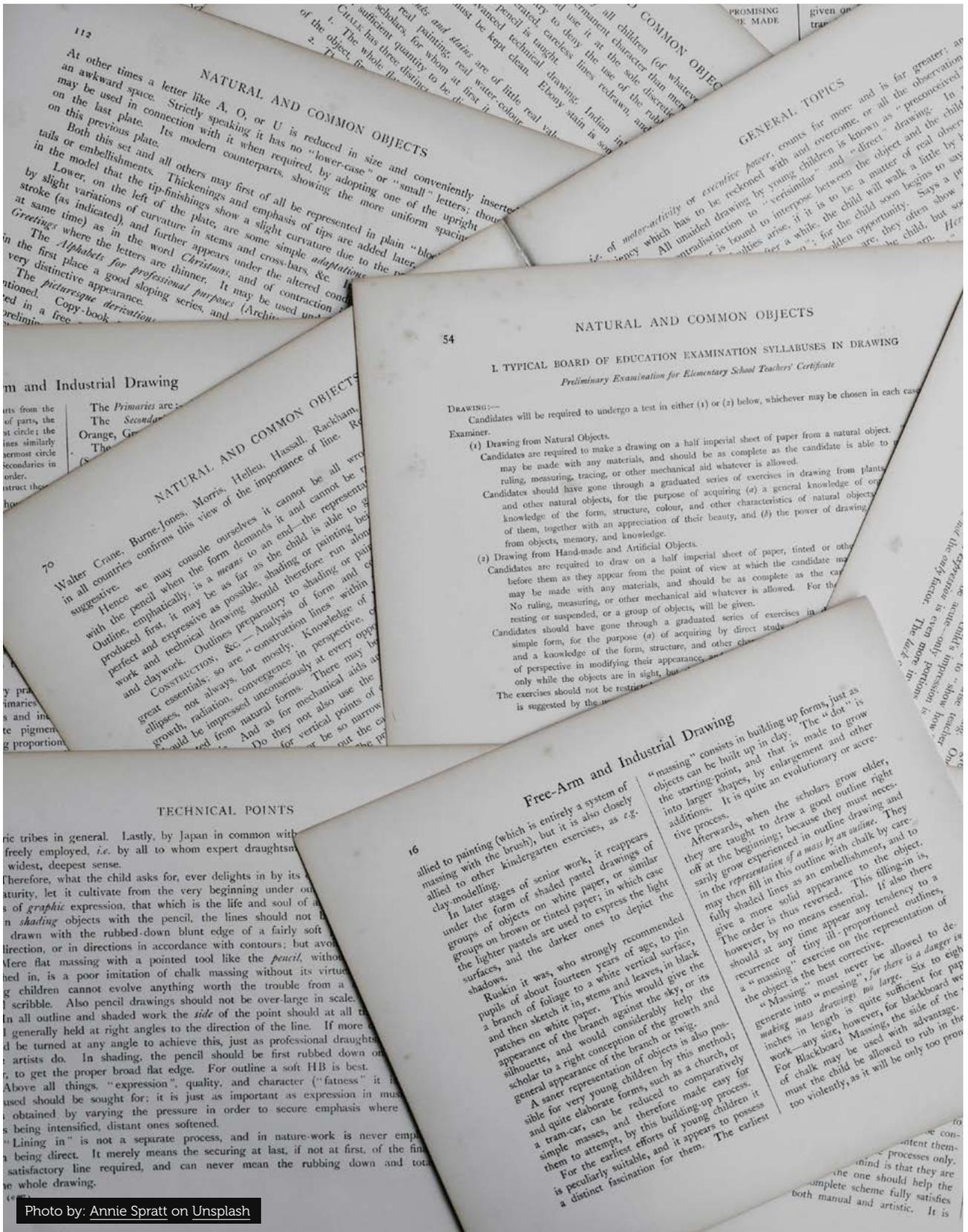


Photo by: Annie Spratt on Unsplash

# 2

## About copyright and Creative Commons licences

CC licences are not an alternative to copyright. In fact, they are built on copyright and similar rights and last for the same length of term as these rights. The licences enable rights holders to specify a standard set of terms and conditions regarding sharing and reuse that will best suit their needs, while ensuring that the authors are credited for their work.

### 2.1 What is copyright?

Copyright is the exclusive right, held by the creator (author) of a work, to **reproduce**, publish, modify and distribute or sell copies of that work. Without the creator's permission, third parties are not allowed to do this; except for some specific and limited uses provided by statutory exemptions in the Dutch Copyright Act (Auteurswet). Copyright arises automatically as soon as a work is created. For academic work (academic output), this usually means as soon as it is written. No application or registration is necessary. Throughout the European Union, copyright will remain with the creators during their life and for at least 70 years after their death.

Copyright can be transferred to a third party (a private individual or a legal person like a publishing company) by the creator in a written contract or an assignment.

With a CC licence on a work the creator can – without transferring copyright – grant certain permissions to use a work, whether or not under specific conditions, directly to a third party. This is on top of the rights, e.g. quotation and educational use, that already exist in the Dutch Copyright Act. It is often very difficult for a third party to understand copyright exceptions, to find out who the current copyright holder is and how to contact them to ask for permissions.

### 2.2 Copyright and publishers contracts

When you want to publish your work with a publisher, the publisher has to get your permission to reproduce, publish, distribute and archive the work in print and electronic form. To be able to do so the publisher may ask you to transfer your copyrights or to grant a licence to publish.

With a *Transfer of Copyright Agreement*, the author transfers (all) their rights of the work to the publisher, including those pertaining to electronic forms and transmissions, and can no longer exercise control over how the publisher uses those rights. On the other hand

in a *Licence to Publish*, the author retains copyright and licences specific rights to the publisher, thus maintaining control over their rights that have not been granted.

A *Licence to Publish* can be exclusive or non-exclusive. For the author (**licensor**) granting an exclusive licence will in most cases have the same result as a transfer of copyright: the specific rights have been exclusively granted to the publisher (**licensee**); the licensor can no longer exercise them. That is why it is important to grant a non-exclusive licence. With a non-exclusive licence, such as a CC licence, you can grant all licensees specific rights with a standard contract.

Please note that some publishers ask you to transfer your copyrights or assign exclusive rights to be able for them to grant a CC licence. If you have a choice we recommend not to do so. By transferring copyright or granting an exclusive licence, you will no longer be in the position to exercise specific rights yourself. For instance, if the publisher owns your commercial rights, you would have to ask the publisher permission, and in most cases pay the publisher, to be able to add your publication to a printed course reader and charge for it.

### 2.3

## Rights usually reserved to the author after signing a publishing contract

Usually, certain rights remain reserved to authors or are granted by publishers in a standard contract, whether based on a *Transfer of Copyright Agreement* or an exclusive *Licence to Publish*. These are:

- the right to make further copies of all or part of the work for private use and classroom teaching.
- the right to reuse all or part of the work in a compilation of a work or text book of which you are the author.
- the right to make copies of the published work for internal distribution within the institution that employs you.

If a publisher does not expressly allow the author to exercise those rights as standard in the contract, the author will have to seek permission.

By law, some copyrights cannot be transferred. E.g. you will always keep the right based on article 25fa Dutch Copyright Act to make short scientific works freely available to the public after a reasonable period of time, if they are the result of research funded with Dutch public money. See for more information the initiative [You share, we take care!](#) by the Dutch university libraries.

## Retaining your rights

Authors can always try to retain more rights over the work through negotiation with the publisher. For that purpose SPARC has developed an [Author Addendum](#) that can be added to your paper at submission.

In addition, cOAlition S has announced its [Rights Retention Strategy](#), that aims is to empower researchers funded by cOAlition S to retain control over their work. This strategy will allow authors to publish in their journal of choice, including subscription journals, while retaining the right to self-archive the author's accepted manuscript of their papers immediately upon publication under a CC BY licence.

# 3

## About Creative Commons licences

CC licences provide everyone from individual creators to large institutions a standardized way to grant the public permission to use their creative work under copyright law. From the reuser’s perspective, a CC licence on a copyrighted work answers the question, “What can I do with this work?”<sup>1</sup> The licence is expressed in three forms: the legal code (the licence itself); a human-readable deed summarising the principal terms and conditions of the licence, and a machine-readable form that computers can parse to identify the key licence features.

There are six CC licences, as shown in the table below. These licences consist of different combinations of four elements: **Attribution (BY)**, **Share Alike (SA)**, **Non-Commercial (NC)** and **No Derivatives (ND)**. All CC licences require Attribution, i.e. crediting the **original author**. All CC licences should be used unamended. One of the six can be chosen, after which they are irrevocable.

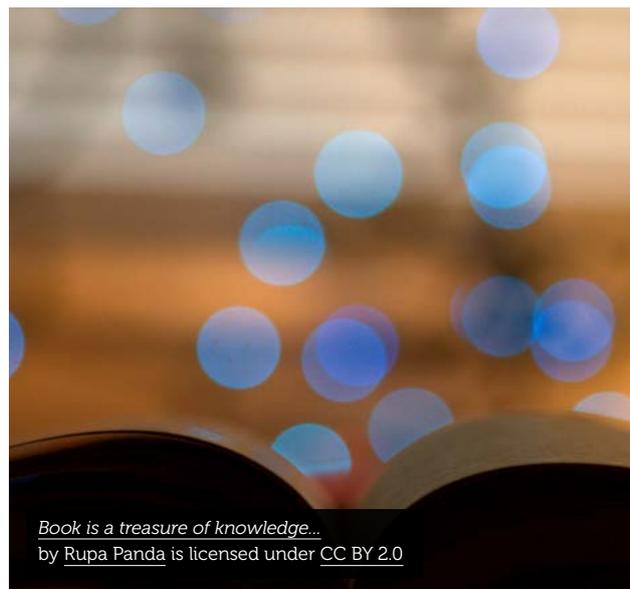
### 3.1 Choosing a Licence

#### Things to consider and check in advance when publishing academic works:

- usually publishers, preprint servers and repositories present a limited number of CC licences (e.g. you could be given a choice between CC BY and CC BY-NC-ND),

- your funder might require you to choose a specific CC licence (e.g. cOAlition S funders require the use of CC BY or, exceptionally, CC BY-ND).

Unless your choice of a licence is predetermined by your funder’s requirements, the best way to choose which licence is most suitable for your work is to think of how you want your work to be distributed and used by others, which types of reuses you want to encourage and which ones you would like to prevent. Need help choosing a licence? Try this [Licence Chooser](#).



<sup>1</sup> This paragraph is reproduced from About CC Licenses. Licensed under a Creative Commons Attribution 4.0 International license. <https://creativecommons.org/about/ccllicenses/>

CREATIVE COMMONS LICENCES<sup>2</sup>

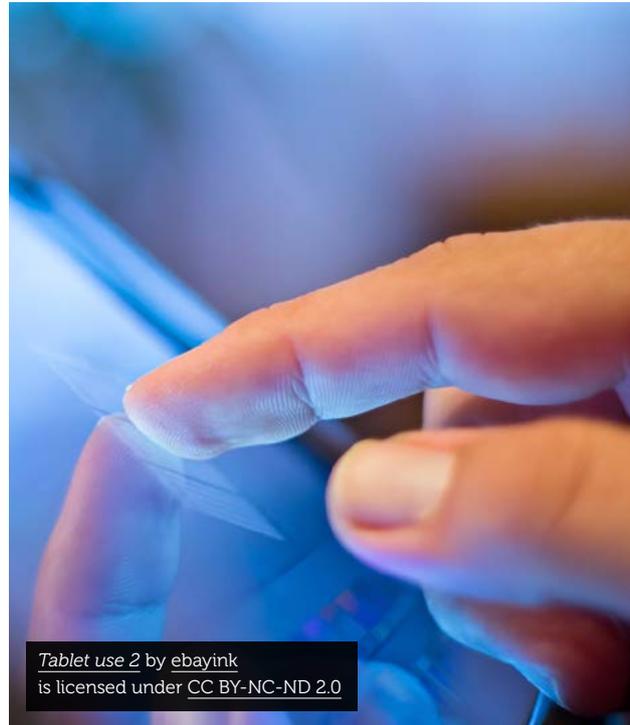
Licence designation	Licence name	What does this mean for you as an author?
<b>CC BY</b> 	Attribution	The most liberal of the CC licences apart from CC0 Public Domain Dedication. This licence allows others to <b>distribute, remix, tweak, and build upon</b> a work – also commercially – provided they credit the author for the original creation and clearly indicate that changes were made to the work, if any.
<b>CC BY-SA</b> 	Attribution ShareAlike	Similar to CC BY; however, others must licence new creations under identical terms. Therefore, all new works reusing (parts of) such work will need to carry the same licence and any <b>derivatives</b> will also allow commercial use. <sup>3</sup>
<b>CC BY-ND</b> 	Attribution NoDerivatives	This licence allows for redistribution, commercial and non-commercial, provided it is passed along unchanged and in whole, with credit to the author.
<b>CC BY-NC</b> 	Attribution Non-Commercial	With this licence others must not remix, tweak, or build upon the original work for commercial purposes. Although new works must also acknowledge the author and be non-commercial, reusers do not have to licence their derivative works on the same terms.
<b>CC BY-NC-SA</b> 	Attribution Non-Commercial ShareAlike	This licence lets others remix, tweak, and build upon the author's work non-commercially, provided they credit the author and licence their new creations under the identical terms.
<b>CC BY-NC-ND</b> 	Attribution Non-Commercial NoDerivatives	This is the most restrictive of the six licences, only allowing others to download works and <b>share</b> them with others as long as they credit the author, but they cannot change them in any way or use them commercially.

<sup>2</sup> This table is reproduced with small alterations from Martin Paul Eve, *Open Access and the Humanities: Contexts, Controversies and the Future* (Cambridge: Cambridge University Press, 2014) <http://dx.doi.org/10.1017/CBO9781316161012>. Licensed under a CC BY license. We have merged two columns and changed the text slightly.

<sup>3</sup> The ShareAlike condition applies only to derivative works, not to collections. Including a CC BY-SA licensed work in a collection does not produce an adaptation, so the collection does not have to be licensed via a CC BY-SA.

## Examples of reuse allowed under a CC BY licence<sup>4</sup>

- Distribute the full-text of a publication freely to students or colleagues.
- Copy a text for indexing or text mining purposes for commercial and non-commercial purposes.
- Include the full-text of a publication in a repository (e.g. institutional repository) or upload it on academic social networks.
- Combine parts of a work, along with other openly licensed resources, into a **collection** (e.g. a student handbook or textbook).
- Translate a work into another language.
- Modify tables and charts contained in a journal article and reproduce them in a new publication.



**NB: Crediting the original work, indicating whether changes have been made, stating the licence under which the work is licensed and linking to it is mandatory for all types of reuse described in the box above.**

In addition to the licences above Creative Commons has also developed a tool (CC0 Public Domain Dedication) by which you can dedicate creations to the public domain. The dedication is done through legal code hosted by Creative Commons (just as the licences are) in which you waive all copyright and related rights, such as your moral rights – to the extent they are waivable – that you have over your work. Once this has been done, anybody who reuses or builds on your work does not have to credit you, although citation is encouraged. The tool may be of use in certain situations, particularly pertaining to research data such as raw data sets. Before using CC0, you will need to ensure that all rights holders of the work give consent, as the dedication to the public domain is irrevocable. For further information on CC0 please visit <http://creativecommons.org/about/cc0>

### 3.2

## Why is CC BY encouraged by open access proponents?

Open access publishing aims to make research publications available for anyone to read and reuse. The Budapest Open Access Initiative (2002) – a key driver of open access developments in Europe – has recommended CC BY as the preferred licence for open access publication. CC licences are used because they offer an internationally established legal structure that is aligned with the aims of open access. As shown in the table, CC BY is the most permissive CC licence, allowing sharing, commercial reuse and modification as long as the original author is credited and it is clearly indicated if changes were made to the original work. Its proponents argue that this gives users the greatest possible degree of flexibility, allowing published research to be used for commercial purposes and, by doing so, potentially encouraging innovation and economic growth.

<sup>4</sup> This list of examples is adapted from [Open Textbooks, OER & Other Open or Free Resources for Faculty](#). Licensed under a Creative Commons Attribution-ShareAlike 4.0 International License. Portions of the original text have been cut, edited and mixed with original content.

## A special note of caution on the use of NC and/or ND licenses by publishers

When selecting a CC BY license with an NC or ND restriction for an article, authors commonly (but unknowingly) transfer the exclusive right to manage the license to their publisher. This is stated in the "License to Publish agreement", but not all publishers communicate this clearly to authors (see [publisher policy examples](#)). When a license with an NC and/or ND restriction for the end user is chosen by the author, the right to manage the license includes the right to reuse the publication either commercially or in adapted form and grant third parties the right to do so. Publishers can authorize commercial reuse at their sole discretion and charge third parties for the permission to reuse, redistribute, adapt (e.g., translate), and/or make the work further known. In this way, the right to commercially reuse a publication or make adaptations becomes an extra revenue stream for publishers, as these rights are no longer in the hands of the author.

### NB:

By using a CC BY license, crediting the original work and stating the license under which the work is licensed is mandatory for all types of reuse.

## What alternative do you have?

It is important to consider what you want to protect with a non-commercial or non-derivative license. If it is a model, an image, or data that you wish to protect, we recommend the following steps.

- STEP 1: Determine the object you want to protect.
- STEP 2: Deposit the object in a trusted repository and apply a CC BY-NC or CC BY-ND or CC BY-NC-ND license, depending on your needs.
- STEP 3: Publish the article under a CC BY license and reference the object previously deposited in the repository in the article.

In this way, the right to commercially reuse the object and make derivatives remains with the author. Trustworthy data repositories such as Zenodo, 4TU ResearchData or DataVerseNL do not take over control of the license from the depositor. Authors retain the rights and permissions to reuse and redistribute their data, images, models or other objects. Once the object is safely deposited and appropriately licensed, authors can proceed to publish the article under a CC BY license. This will enable the text of the article to be widely reused, while the object will be protected from unauthorized commercial reuse and derivatives.



Flipboard by thms.nl  
is licensed under [CC BY 2.0](#)

# 4

## Questions about process

### 4.1

#### How do I publish under a Creative Commons licence?

If you publish your work open access with a publisher, preprint server or repository, usually you need to choose a specific CC licence when signing the publishing contract. The publisher, preprint server or repository will add the selected licence to the final published work according to the mandatory format.

If you want to make your work public with a CC licence yourself, you can simply mark your work with the specific CC licence that you want to use. You can do this by stating the licence in a copyright notice, or by adding the logo of the licence, with a link to the licence information on the Creative Commons website. Logos and links can be found on the Creative Commons website. The [Licence Chooser](#) by Creative Commons helps you generate a ready to use text or html code to copy onto your work.

**For example:**

This work is licensed under CC BY 4.0. To view a copy of this licence, visit <https://creativecommons.org/licenses/by/4.0>.

**or:**

This work is licensed under a [Creative Commons Attribution 4.0 International License](#).



**or:**

© year of publication, name of author(s), CC BY 4.0.  
To view a copy of this licence, visit <https://creativecommons.org/licenses/by/4.0>

Note that all copyright holders e.g. co-authors of a work, or holders of similar rights, should agree on the used CC licence.

Some publishers demand that you add a specific CC licence to the Author Accepted Manuscript (AAM) of your work when self archiving it, e.g. in the institutional repository. The text example given above is sufficient to comply with this. You can find out what copyright and self-archiving policies different publishers have on [SHERPA/ RoMEO](#)

### 4.2

#### How do I attribute Creative Commons licensed work?

To give credit to the creator of CC-licensed work you can refer to this [best practices guide](#). Alternatively you can use this [Open Attribution Builder](#) which automatically generates the attribution for you based on the information you provide.

### 4.3

## Who holds the copyright for a publication published under a Creative Commons licence?

Under a CC licence, the copyright remains with the licensor. The licensor can only be the current copyright holder or rights holder (usually the author unless the author has transferred copyright to the publisher, [see also 2.2.](#)).

### 4.4

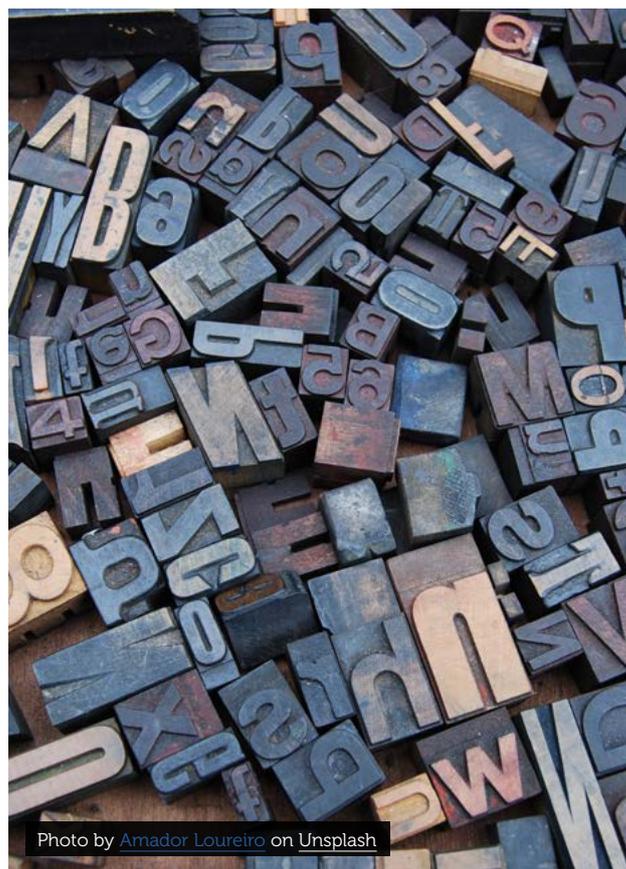
## Who is responsible for enforcing the Creative Commons licence?

The licensor is always the copyright holder, the author or e.g. a publisher. In the event that the publisher owns copyright, the publisher is responsible for enforcement. In the event that the author is the licensor and licences the work to the public, it will be the author. In short, it depends upon the contract or agreement between the author and the publisher – if there is one.<sup>5</sup> Creative Commons strongly encourages amicable resolution when attribution disputes arise – this is seen as an important value within the Creative Commons community.<sup>6</sup>

### 4.5

## Can I change my mind about a Creative Commons licence after the work is published?

No, CC licences are irrevocable. Once a work is published under a CC licence, licensees may continue using the work according to the licence terms for as long as the material is protected by copyright, even if you later stop distributing it.



<sup>5</sup> The author remains the copyright holder if no copyright transfer contract was concluded. The same is true if a licence contract was concluded. However, in a licence contract the author can agree that the publisher will enforce the CC licence in their place.

<sup>6</sup> <https://creativecommons.org/2020/01/15/thoughts-on-non-amicable-enforcement-of-cc-licences/>

# 5

## Questions about Creative Commons and open access books

Open access monographs are establishing themselves as a publication model in the humanities and social sciences and researchers are increasingly aware of this option. In addition, funders are beginning to introduce open access requirements for books in their policies. CC licences are also used in the domain of books. This section answers some of the common questions regarding books and Creative Commons.

### [5.1](#)

#### [Can my book still be sold if it is published under a Creative Commons licence?](#)

Yes. Often, a PDF will be made available for free, and the publisher will continue to charge for print and possibly other e-book versions. Others may publish and sell your book, too. However, if you licence your work under a CC NC licence which permits only non-commercial reuse, you will need to grant your publisher permission to sell the book commercially.

### [5.2](#)

#### [Will my book still be made available in print if it is published under a Creative Commons licence?](#)

This will depend upon your publisher and what you agree to in the publishing contract. Some publishers will rely upon selling print versions of the open access book to support their business model. Some are moving to a print-on-demand option for open access content, but this should not affect the availability of your print book.

### [5.3](#)

#### [Will I still get royalties from a book with a Creative Commons licence?](#)

That will depend upon the agreement between you and your publisher, but in principle there is no reason why you should not receive royalties on any sales of a book published under a CC licence. If you think your book is likely to produce significant royalties, you should consider this in negotiations with your publisher.

#### 5.4

If I publish my book under a CC BY licence can the book be translated without my permission?

Yes, the use of a CC BY licence permits derivative works to be made, including translations, without seeking the licensor's permission. Note that derivatives have to give appropriate credit to the original work, provide a link to the licence, and indicate if changes were made. Granting a CC BY licence does not imply that the original creator endorses any derivatives. If you include the ND element to your licence, users will have to ask the licensor (be it the publisher or the author) for permission before making any derivatives.



*Steal Like An Artist – "Do good work and share it with people"*  
by Austin Kleon is licensed under [CC BY-NC-ND 2.0](#)

# 6

## Questions about repercussions for scholarship

It is important to understand that a Creative Commons licence only covers a new piece of scholarship, as an author can only license their own work, not that of others. **Third party content** is therefore excluded from the scope of the Creative Commons licence. Even if an author includes in their work a piece of third party content, such as an image, that has been licensed under CC BY, the image is excluded from the Creative Commons licence that the author applies to their work. This is because the image has been licensed under a separate Creative Commons licence, granted by the image creator. Therefore all third party content, including content which the author has permission to use in a publication published with a Creative Commons licence, must be clearly marked in a similar way to a traditional publication, which would also recognise third party content.

Marking by the author ensures that users understand the different licence conditions which apply to the third party content. An example from the Creative Commons wiki illustrates this (see box).

Clearly marking the excluded elements and stating the terms under which third party content has been made available, means that anybody who reuses that content without permission from the original rights holder may be violating the third party's copyright, even if they found the content in an open access publication.

### Marking third party content<sup>7</sup>

Here's how you may want to consider marking third party content that is offered under a different CC licence than the one you are using.

Examples of marking your own work:

- Except otherwise noted, this blog is © 2009 Greg Grossmeier, under a Creative Commons Attribution-ShareAlike licence: <http://creativecommons.org/licenses/by-sa/3.0/>.

Example of marking the differently licensed item:

- The photo X is © 2009 Jane Park, used under a Creative Commons Attribution-Noncommercial licence: <http://creativecommons.org/licenses/by-nc/3.0/>.

In general, when using works offered under CC licences you should consider adhering to best practices for marking that content.

<sup>7</sup> [https://wiki.creativecommons.org/wiki/Best\\_practices\\_for\\_attribution](https://wiki.creativecommons.org/wiki/Best_practices_for_attribution).

## 6.2

### Should I apply a Creative Commons license to research data?

In the case of open data, the application of CC licenses to research data is useful to indicate which reuse is permitted. For data that requires restricted access some repositories have a specific license available. Applying a CC license is, however, not as straightforward as in the case of scholarly publications, as factual data is not protected by copyright. Although copyright may in some cases be applicable, there are more issues to consider before depositing research data:

- Rights of (human) participants in a study;
- Confidentiality of data;
- Intellectual property on assets in the dataset (e.g., patents, software code);
- Copyright protection of (parts of) the contents in the dataset;
- Contractual obligations set out in agreements with partner organisations;
- Legislation concerning databases and ownership of rights and/or contents.

OpenAIRE offers [guidance](#) on the protection of research data. Repositories for research software and/or code may offer their own discipline-specific set of licenses. Please note that not all research data repositories offer the possibility to apply a CC license to a dataset.

## 6.3

### Will Creative Commons licences encourage plagiarism?

Plagiarism may affect all forms of publishing rather than specifically CC-licensed works. All CC licences require that the original author is attributed, meaning that any plagiaristic use is unacceptable; failure to attribute constitutes copyright infringement. It is important to stress that plagiarism is primarily an issue of academic ethics rather than the law. It has some crossover with copyright, but content can be plagiarised regardless of how it is licensed, even after it is out of copyright.

Plagiarism is considered an instance of serious academic misconduct by '[The Netherlands Code of Conduct for Scientific Integrity](#)' and is sanctioned accordingly.

## 6.4

### What can I do if somebody is using my work without complying with the conditions of the applied Creative Commons licence?

For example, if a reuser of CC-licensed material does not provide the attribution required when sharing the work, then the user no longer has the right to continue using the material and may be liable for copyright infringement. The licence is terminated for the user who violated the licence. However, all other users still need to comply with the terms of use of the CC-licensed material in question. In case of violation of a CC licence, the licensor can contact the reuser directly to ask to rectify the situation or begin legal proceedings for copyright infringement.

## 6.5

### Are there special circumstances in some disciplines leading to specific licence demands?

Although CC licences have been used extensively in scientific open access publishing, they have been developed to cover a much broader area including data, databases, arts, music, photography and the written word, regardless of discipline. CC licences can therefore be of use in all disciplines.

It is true though that there is more sensitivity towards more liberal forms of reuse in the humanities. The possibility to translate scholarly works without the copyright holder's permission, which is possible under some CC licences, tends not to be viewed favorably by humanities scholars. The ability to control the quality of the translation is deemed important because of the linguistic nature of much humanities research. The CC BY-ND licence can accommodate these concerns, while still allowing the work to be distributed and reused widely.

Regardless of any licence, authors can always have to deal with the issue of wilful misrepresentation. These can also happen with citations. That cannot be prevented by choosing a specific licence.

# 7

## Questions about derivatives and reuse

### 7.1

Does a CC BY licence mean that anyone can reuse my work however they want to?

A CC BY licence allows users to share (copy and redistribute the material in any medium or format) and adapt (remix, transform, and build upon the material) for any purposes, also commercially. However, users must attribute you (unless you have specifically said that you do not want to be attributed) and clearly indicate if changes have been made to your original work. Additionally, users must not imply that you endorse or support the changes that they have made or the new work that they have produced.



Photo by [Green Chameleon](#) on [Unsplash](#)

### 7.2

How can I avoid the misrepresentation of my work in derivatives?

As with plagiarism ([§6.3](#)), misuse of academic research is a longstanding and recognised problem. Nothing in a CC licence makes it acceptable for a user to misrepresent or misuse an author's work ([see also §6.5](#)). If your work is adapted or used in a way that you do not agree with, for example, because it is incorrect, or because you do not support the stance of the users, you have the option to request removal of attribution.<sup>8</sup>

CC licences also contain a 'no endorsement, no sponsorship' clause, which explicitly says that users may not imply that the original author supports or endorses their reuse of the work. If they violate this clause, they are in breach of the CC licence and must stop using the work. In such cases of violation, the violator becomes liable to action under copyright law.

<sup>8</sup> <https://creativecommons.org/faq/#what-can-i-do-if-i-offer-my-material-under-a-creative-commons-license-and-i-do-not-like-the-way-someone-uses-it>

### 7.3

## Can I specifically ask not to be attributed for a certain piece of work?

Yes, you can. If you do not want to be associated with a certain piece of work, you can ask for your attribution to be removed and the user must comply if reasonably practical.

### 7.4

## Creative Commons licences and text and data mining and why is it relevant to me?

Text and data mining (TDM) are algorithmic techniques for processing bodies of texts or other types of data in ways, and at scales, that would not be viable manually. A researcher may wish to examine the ways in which a specific issue has been represented in the past fifty years in a corpus of academic works (e.g. academic journal articles) through text and data mining. With works that are still in copyright, this may not be possible. Under the CC BY licence, however, this type of work can be undertaken.

## Examples of reuse not compatible with a ND licence

- Modify images – change the colors, edit someone in or out, crop the image.
- Edit (parts of) a text and reproduce them in a new publication.
- Customize content to a specific location/ discipline/focus – change examples, add different scenarios, change terms to reflect a different discipline.
- Translate a work into another language.
- Reuse for open educational resources (9.1)

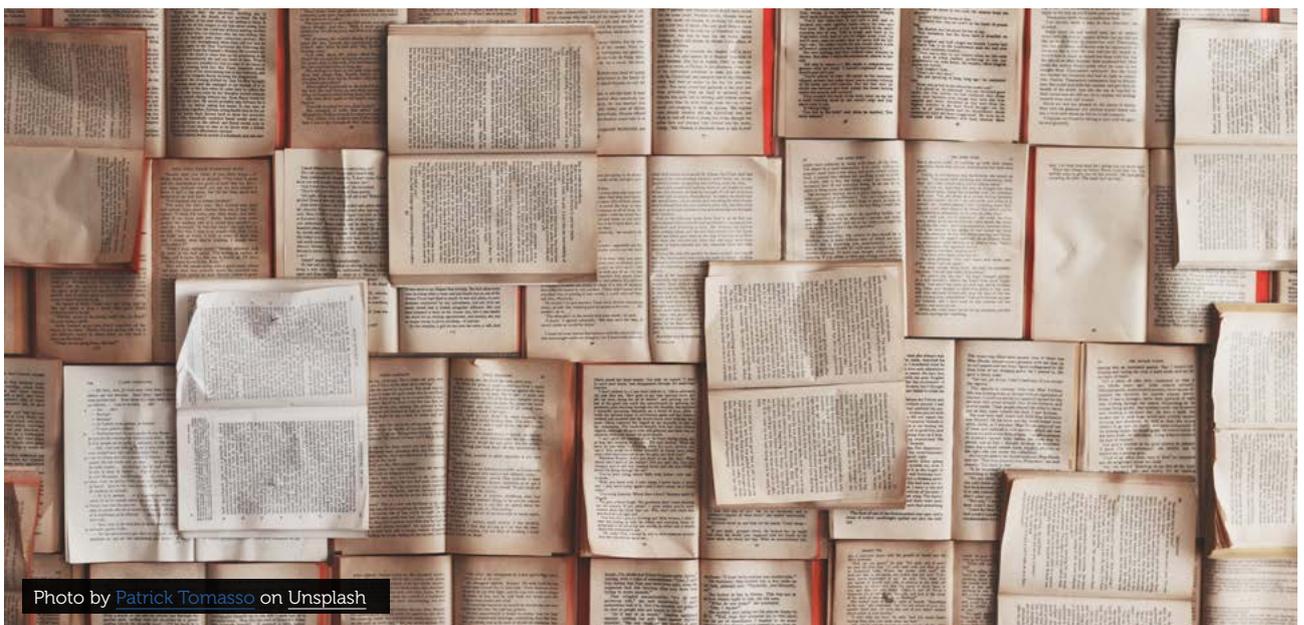


Photo by [Patrick Tomasso](#) on [Unsplash](#)

# 8

## Questions about commercial use

### **8.1** Why is the use of a non-commercial Creative Commons licence discouraged?

That is because the definition of 'non-commercial' in Creative Commons is open to interpretation. It is difficult to know what exactly constitutes commercial reuse. For example, if someone posted a copy of a paper on an educational website that generates even a small amount of revenue from advertising, it could be considered as commercial reuse. As such, the use of NC licences could have unwanted consequences on the possibilities of distribution of your content.

There is considerable debate about whether 'non-commercial' coincides with 'not-for-profit'. A study commissioned by Creative Commons into the interpretation of 'commercial' and 'non-commercial' by creators and users indicated that uses for charitable purposes are considered 'less commercial' but not 'decidedly non-commercial'.<sup>10</sup> Therefore, applying a NC licence to your work could prohibit all types of organisations that generate revenue from redistributing your work. Permitting all commercial reuse removes this problem, and allows people to reuse the work without

worrying about whether they may (unintentionally) make money from it.

Apart from the mentioned interpretation issue – and for some more importantly – is the principle that 'research that is publicly financed should be available for reuse for all purposes' because it may help generate products and services that benefit society and because organisations involved in commercial endeavours also pay taxes that the research is funded by.

### **8.2** Why should I allow another party to make money out of my publications, which is my intellectual property?

The term 'commercial use' refers to the fact that an organisation intends to obtain a commercial advantage and possibly aims for financial remuneration. It is tempting to immediately think about large multinationals like Shell, Google, Amazon, but actually a non-commercial licence prevents all revenue-generating organisations from reusing your work. This can even include cultural or educational institutions like schools, museums or universities. Even those nowadays cannot rely exclusively on public funding and have to rely in

<sup>10</sup> Further information on the study and the work of Creative Commons on the definition of non-commercial for version 4.0 of the licences is available at: [http://wiki.creativecommons.org/Defining\\_Noncommercial](http://wiki.creativecommons.org/Defining_Noncommercial).

part on their own revenues. As such, the use of a NC licence precludes a large pool of organizations and institutions from reusing your work, thus possibly reducing its impact and visibility.

No matter who the commercial party reusing the material is, the intended reuse may not necessarily be a bad thing. Think about pharmaceutical companies using text and data mining techniques to develop new drugs or vaccines; or bringing together papers from prestigious journals and selling them as printed textbooks in less-developed countries with limited internet access.

One of the reasons why open access is supported in the Netherlands and globally, is its potential to foster and accelerate innovation and economic development. Funders like NWO and ZonMw want to maximize the social and economic impact of their publicly funded research and are held accountable to that. The use of restrictive NC licences could seriously hamper economic and social growth. For this reason, NWO, ZonMw and all COAlition S funders will not accept licences that include the NC condition.

## Examples of reuse not compatible with a NC licence

- Distribute a work in the context of a commercial summer school course.
- Copy a text for indexing or text mining for commercial purposes.
- Reproduce a work in magazines, newspapers or websites that produce revenues.
- Reuse parts of a work (e.g. tables or figures) for advertising or marketing purposes.



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# 9

## Open educational resources and Creative Commons licences

Belonging to the umbrella of Open Science, Open Educational Resources (OER) are “learning, teaching and research materials in any format and medium that reside in the public domain or are under copyright that have been released under an open licence, that permit no-cost access, reuse, re-purpose, adaptation and redistribution by others” ([2019 UNESCO Recommendation on OER](#)). OER include textbooks, syllabi, articles, lecture notes, videos, images, simulations, exercises, whole courses and many other types of educational contents.

CC licences are essential to understanding and using the abovementioned five permissions of OER, or the ‘5R activities’,<sup>11</sup> namely the right to retain, revise, remix, reuse and redistribute specific materials. These rights are granted to the user by the copyright holder through licensing the original content with a combination of different CC licences – BY, SA, NC – or through dedicating the material to the public domain (CC0). Thus, CC-licensing conditions provide a clear indication of what is and is not allowed when creating, reusing or revising OER content.

### 9.1

#### How do OER differ from open access publications?

Both OER and open access (OA) publications – scholarly books and journal articles – are openly licensed materials that imply free unrestricted access. Unlike OA publications that may encompass the whole range of CC licences, OER are always available under a licence that allows adaptations (CC BY, SA, NC or their combinations). Thus, CC ND-licensed materials fall out of the scope of OER. Generally speaking, OER are usually associated with teaching, while OA publications belong to research practices. However, OA publications can be used for teaching purposes and may also qualify as OER, if released under an appropriate CC licence.<sup>12</sup>

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11 The concept is derived from [Defining the “Open” in Open Content and Open Educational Resources](#) by David Wiley, licensed under [CC BY 4.0](#).

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12 This paragraph is adapted from [Open Access & Education](#), Expanded by Abbey Elder, licensed under [CC BY 4.0](#).

## 9.2

### How do Creative Commons licences allow me to incorporate OER in my teaching?

Using CC licences is an easy way to keep your copyright and at the same time enable legal sharing of educational resources with teachers and learners worldwide. Due to the permissive nature of CC licences used for the creation and publication of OER, such materials can be integrated into most courses and enable educators to use or develop innovative and learner-centered resources.

CC licences allow a teacher to be both a user and a creator of OER at the same time. Teachers can (re)use CC-licensed presentations, books, simulations, mind maps and images and embed them into their courses as part of the core or auxiliary materials. Teachers can also become co-creators of OER by revising and remixing contents and adapting them to specific educational needs: translating them, enriching them with locally relevant examples or updating them according to recent developments in the field. For instance, openly licensed works can be used to create open textbooks, which help reduce the daunting cost of textbooks and therefore make educational material more accessible.

## 9.3

### How will Creative Commons content affect my teaching?

One of the biggest hurdles to those wishing to use OER is the content from third parties and the lack of agreed pricing structure from publishers of such content to use the material for open access purposes.

By licensing your work under CC licences, you ensure that you and others can teach using your scholarly outputs. As previously indicated, certain forms of existing copyright transfer can interfere with this practice.

Licensing academic content under CC licences implies awareness that the web facilitates sharing and reuse. Books and other materials made available online and licensed with CC licences pose fewer restrictions for their distribution and access, therefore potentially increasing the likelihood of an impact outside higher education.



## Glossary

**Attribution (BY):** the original author lets others use their work if they give credit the way the author requests.

**Collection:** the work in its entirety in unmodified form along with one or more other separate and independent works, assembled into a collective whole.

**Derivative (works):** material in any form that is created by editing, modifying or adapting the work, a substantial part of the work, or the work and other pre-existing works. Derivative (works) may, for example, include a translation, adaptation, musical arrangement, dramatisation, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which the work may be transformed, recast, remixed, tweaked or adapted.

**Distribute:** to make the original and copies of the work or derivative available to the public by means, including publication, electronic communication, storage in digital form or broadcast.

**Licensor:** the individual, individuals, entity or entities that own(s) copyright in the work and are authorised to offer the work under the terms of a CC licence.

**Licensee:** the parties gaining access to the work offered under the terms of a CC licence (publisher, the public).

**Non-Commercial (NC):** the rights holder lets others use the work but for non-commercial purposes only. It does not mean that works may never be used for commercial purposes, but this requires a separate permission from the rights holder.

**No Derivatives (ND):** the rights holder authorizes others to copy, distribute, display, and perform only verbatim copies of the work, but does not grant the permission to make derivative works based upon it. The right to make adaptations is subject to separate permission.

**Original author:** in the case of a literary or artistic work, the individual, individuals, entity or entities who created the work.

**Work:** the literary and/or artistic work offered under the terms of the licence including without limitation any production in the literary, scientific, and artistic domain, whatever may be the mode or form of its expression including digital form, such as a book, pamphlet, and other writing.

**Remix:** mixing material from different sources or multiple works to create a wholly new creation or work. One often cannot tell where one open work ends and another one begins. All remixes are derivative works, but not all derivative works are remixes, e.g. a translation.

**Reproduce:** to make copies of the work by any means, e.g. digitally, including without limitation by sound or visual recordings, by fixation and reproducing fixations of the work and storage of a protected performance or phonogram in digital form or other medium.

**Share Alike (SA):** the rights holder allows others to make derivatives from the author's original work, but they should distribute these derivative works only under a licence which is similar or recognized compatible to the licence that governs the original work.

**Share:** copy and redistribute the material in any medium or format.

**Third-party content:** material created by others.

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- Paul Klimpel, *Free Knowledge based on Creative Commons Licenses Consequences, risks and side-effects of the license module „non-commercial use only – NC (Berlijn 2012)* <https://vlaamse-erfgoedbibliotheken.be/en/node/2725>

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