



Copyright and licenses (Digital Content Creation)



Co-funded by the
Erasmus+ Programme
of the European Union



AGITATEUR NUMÉRIQUE
DEPUIS 1999



**CITIZENS
IN POWER**



innovation hive



ASSOCIATION HEXAGONALE
de l'Innovation Sociale et de l'Éducation



Фондация на бизнеса за образованието

Partnership



Co-funded by the
Erasmus+ Programme
of the European Union

Table of Contents



1. Introduction
2. Learning outcomes
3. Theory
 - Introduction to Copyright and Open Licensing
 - European Database Rights and Copyright
 - Examples of Open Licenses
 - Copyright Infringement and How to Avoid it
 - Introduction on Open Science and its fundamental concepts
Open Access and Open Data
4. Examples/Good Practices
5. Quiz
6. References



Introduction



This course presents the essentials of copyright, which are fundamental to better understand the concept of free licenses and public domain. A focus on Creative Commons licenses follows, including their basic conditions and how to combine them for creating the proper CC licenses to use.



Learning outcomes



- Distinguish between Copyright, Open Licenses and Public Domain



- Choosing and using Creative Commons licenses



Learning outcomes



- Reuse content released under different kinds of open licenses



- Identify Open Licenses that fit your own content





Introduction to Copyright and Open Licensing

Copyright

Copyright, as defined by the World International Property Organization, is the legal term for the rights of writers and artists over their literary and artistic creations. Copyright covers works such as books, music, paintings, sculpture, films, computer programs, databases, advertisements, maps, and technical drawings. Each country has its own copyright protection levels and types.

Copyright symbols are used on works to alert users of their copyright status: ©. Copyright symbols are only reminders. In either case, the symbol does not prove that the work is copyrighted, nor does it disprove its copyrighted status.



England enacted the Statute of Anne in 1710 as the world's first copyright law. It introduced for the first time in history the concept of the author owning the copyright to his work and set out fixed terms of protection. Today, countries have their own copyright laws. In addition, there are some international standards, primarily based on the Berne Convention. Original works created in any country receive the same protection under the Berne Convention, regardless of their origin. It's protected by the same copyright laws as a book from your own country if you find an e-book online written by an author from another country.



European Database Rights and Copyright



The European Union does provide legal protection for data under the Database Directive. This act defines what a database is and gives the measures for which databases are treated under copyright ("by reason of the selection or arrangement of their contents, constitute the author's own intellectual creation") and under sui generis database rights when not under copyright. This is the case when the contents of a database are selected by an objective criterion, instead of through originality or creativity. In Europe, database rights protect the time and effort invested in obtaining, verifying and entering the contents into the database.



Open Licensing

Most copyrighted works are under full, “all rights reserved” copyright. This means that they cannot be reused in any way without permission from the work’s rightsholder (usually the creator). One way you can get permission to use someone else’s work is through a license, a statement or contract that allows you to perform, display, reproduce, or adapt a copyrighted work in the circumstances specified within the license. For example, the copyright holder for a popular book might sign a license to provide a movie studio with one-time rights to use their characters in a film.













The power of open licensing lies in its ability to clearly communicate how the creator intends the work to be used. A creator can explicitly share the work and control the licensing provisions while retaining ownership. Remember, for a work without a copyright notice, all rights reserved is assumed.

If you want to openly share your OER with your students and faculty peers, or publish it online for the world to access, displaying an open copyright license statement with the work ensures it will be easily and clearly adopted in the way you intend.



Data Licenses

LICENSES	TERMS
	 Attribution Others can copy, distribute, display, perform and remix your work if they credit your name as requested by you
	
	
	No Derivative Works Others can only copy, distribute, display or perform verbatim copies of your work
	 Share Alike Others can distribute your work only under a license identical to the one you have chosen for your work
	
	 Non-Commercial Others can copy, distribute, display, perform or remix your work but for non-commercial purposes only.

A data license is a legal arrangement between the creator of the data and the end-user, or the place the data will be deposited, specifying what users can do with the data. Here are some examples of data licenses at three different repositories.

There are six licenses. These CC licenses indicate the use parameters that have been granted by the content creator. The content creator still owns the copyright to that content, but through the selected CC license the creator is granting re-use of the content under the specified parameters



The difference between copyright and licensing

Copyright	Licence
It exists, without me doing anything to assert it, from the moment of creation.	It is a legal document
Unless explicitly assigned, or surrendered, it persists regardless of licence chosen for the software.	I have to explicitly choose, or create, the license. It does not apply automatically.
It grants the creator very specific legal rights and remedies (although, these may vary by jurisdiction).	It grants users of the software specific, and limited, rights.
Most forms of copyright have a defined duration (usually life + 'n' years).	Unless stated in the License itself, or until it is revoked, it remains enforceable in perpetuity.

(stack exchange)



Examples of Open Licenses





Creative Commons

A new and more adaptable copyright paradigm is being developed through the Creative Commons (CC) project. To help authors who want to share some of their rights with users and other authors in a way that is simple, flexible, and compliant with the law, Creative Commons produces standardized copyright licenses and additional (optional) technical tools. The initial purpose of Creative Commons licenses was to share creative works. They could be used for any kind of task (scientific or not).

As long as users and redistributors follow the guidelines outlined in the license under which the creator distributes the work, CC licences shield them against accusations of copyright infringement.



There are different CC licences:

Icon	Right	Description
	Attribution (BY)	Licensees may copy, distribute, display and perform the work and make derivative works and remixes based on it only if they give the author or licensor the credits (attribution) in the manner specified by these.
	Share-alike (SA)	Licensees may distribute derivative works only under a licence identical ('not more restrictive') to the licence that governs the original work. Without share-alike, derivative works might be sublicensed with compatible but more restrictive licence clauses, for example, CC BY to CC BY-NC.)
	Non-commercial (NC)	Licensees may copy, distribute, display, and perform the work and make derivative works and remixes based on it only for non-commercial purposes
	No Derivative Works (ND)	Licensees may copy, distribute, display and perform only verbatim copies of the work, not derivative works and remixes based on it.



Public Domain

Public domain materials are those without intellectual property protection like copy rights, trademarks, or patents. These works are owned by the public, not by the individual authors or artists who created them. Anyone can use a public domain work without obtaining permission, but no one can ever own it (Stim 2010)

A Public Domain license and the variety of open license permissions known as Creative Commons (CC) are the predominant standards for open licenses .Creative Commons developed the Public Domain Mark (PDM) to indicate that a work is not subject to known copyright restrictions, and is therefore open to use by the public. At any point, copyright holders may choose to make their works available to the public.



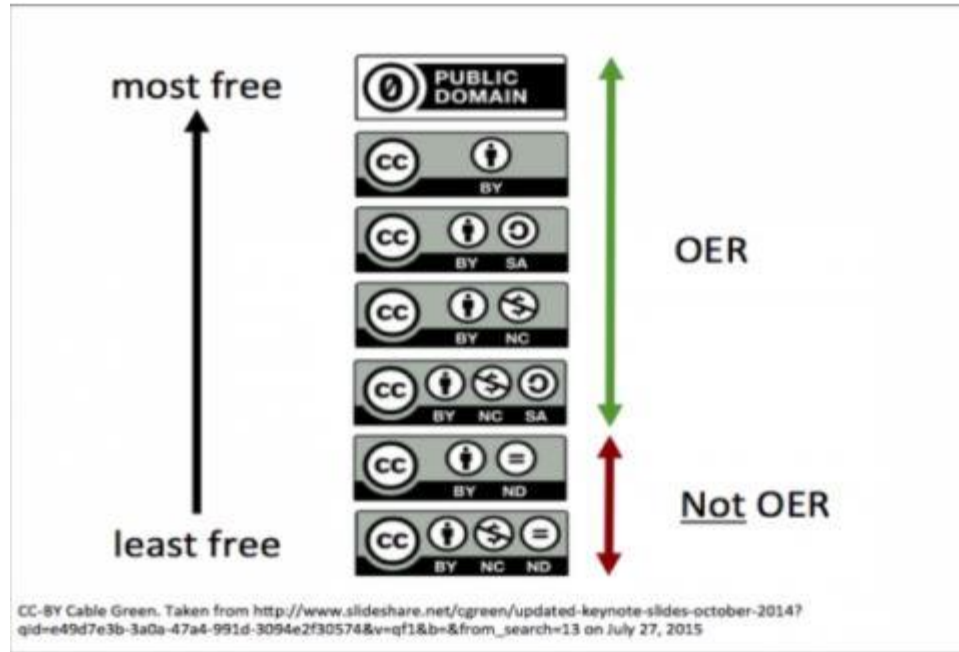
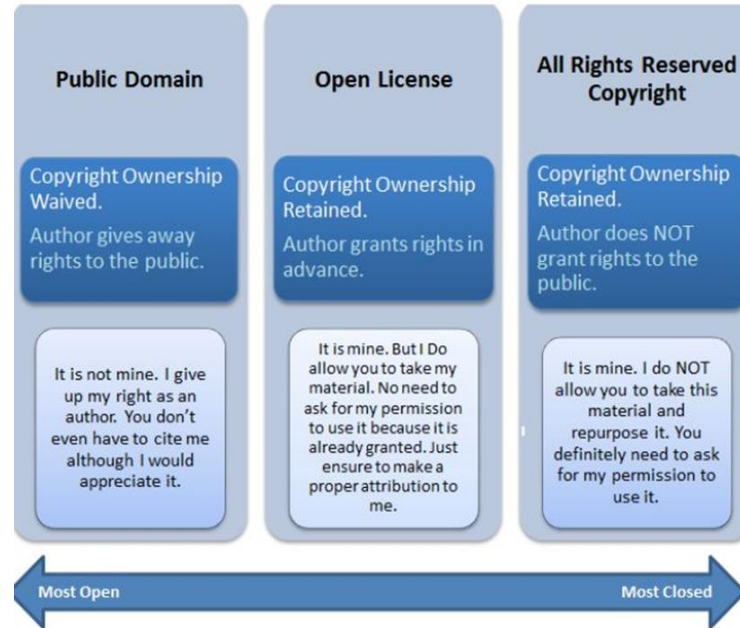


Image source: <https://www.cccoer.org/learn/open-licensing/>



A comparison between copyright, open licences and the public domain



(ACC Learn OER)



Copyright Infringement and How to Avoid it

What is copyright infringement?

The violation of someone's property rights is referred to as copyright infringement (IP). It is another term for piracy or the theft of someone's original creation, especially if the one who stole recoups the benefits and not the creator of the material.

To understanding copyright infringement, you must first recognize the rights and limits of a copyright holder. It is possible to duplicate and distribute someone else's work without really violating or infringing anything, thus you are not legally responsible. It is also possible to face legal consequences even if you had no intention of stealing from the owner.



How to avoid copyright infringement?

- ❖ Do not copy anything
- ❖ Avoid non-virgin development
- ❖ Avoid access to prior design work
- ❖ Document right to use
- ❖ Negotiate for enhanced warranty and indemnity clauses
- ❖ Document your own work



What are the consequences if you use something what is copyrighted?

Copyright infringement, including the dissemination of copyrighted materials without authorization, is both illegal and against UT policy.

If you used someone else's copyrighted content and benefitted economically from it, you may have to pay him monetary damages, and the court may bar you from using his material again without his permission. A federal judge may also seize your material and order you to destroy it immediately. You may also be required to return your earnings to the copyright holder as reparation.



Case law on copyright and licenses

Historically, since the French Revolution, France has favoured the protection of the author's interests. The denomination of copyright in French as authors' rights (droits d'auteur) further demonstrates the legislator's position towards the protection of authors. French legislation grants the author (seen as a natural person creating the work) both economic and moral prerogatives on his or her works, insofar as they are original.

In the French system, authors are the original rights holders. In exceptional cases, ownership (but not authorship) is transferred by virtue of the law to third parties. For example, in the case of collective works, the person owning the copyright is the coordinator of the creation of that collective work.

(EUIPO - European Union Intellectual Property Office)



Case law on copyright and licenses

French competition law is codified in Book IV of the French Commercial Code (FCC). It is largely similar in substance to EU competition law, which directly applies in cases that may affect trade between EU Member States. There is no domestic legal or statutory provision dealing specifically with the interplay between intellectual property (IP) law and competition law. As a result, the rules applicable in this domain are largely based on European and French case law.

French law is protective of the interests of the author, regardless of his or her professional capacity as an artist or not. Consequently, the user who has created an original work benefits from the protection of copyright. According to the law, the contract should clearly stipulate the scope of the assignment of the rights and silence is interpreted in favour of the author, that is to say, anything that has not been expressly assigned in the contract remains the sole property of the author.

(EUIPO - European Union Intellectual Property Office)

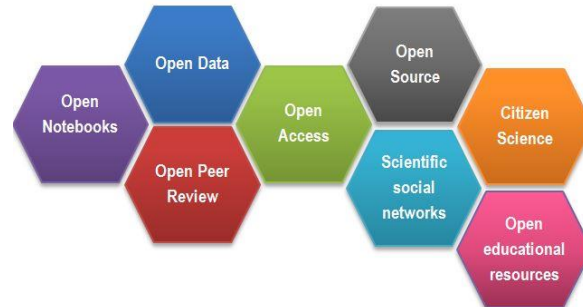


Introduction on Open Science and its fundamental concepts Open Access and Open Data

Open Science

Open science is the movement to make scientific research and its dissemination accessible to all levels of society, amateur or professional. Open science is transparent and accessible knowledge that is shared and developed through collaborative networks. (wikipedia)

Open access+ open data = Open Science



Introduction on Open Science and its fundamental concepts Open Access and Open Data

Open Access

Open access is a broad international movement that seeks to grant free and open online access to academic information, such as publications and data.

A publication is defined 'open access' when there are no financial, legal or technical barriers to accessing it - that is to say when anyone can read, download, copy, distribute, print, search for and search within the information, or use it in education or in any other way within the legal agreements.

<https://www.openaccess.nl/en/what-is-open-access>



Introduction on Open Science and its fundamental concepts Open Access and Open Data



Open Data

Open data is data that is openly accessible, exploitable, editable and shared by anyone for any purpose, even commercially. Open data is licensed under an open license.

One of the most important forms of open data is open government data (OGD), which is a form of open data created by ruling government institutions. Open government data's importance is born from it being a part of citizens' everyday lives, down to the most routine/mundane tasks that are seemingly far removed from government.

https://en.wikipedia.org/wiki/Open_data



Comparative study of different domestic frameworks on copyright and licenses

Comparing the current scenario in the 1970s–1980s, it is immediately clear that, today, the issue of primacy and direct effect does not depend just on what is written in the constitutions, it is something that seems to go beyond the full control of national constitutions.

We can indeed observe judicial practices consisting in:

- According to an interpretive favor to the law independently of what the constitutions provide about its status in the hierarchy of domestic legal sources. For instance, in France, the Netherlands, and in the Nordic countries, the practice of consistent interpretation is widely used for the ECHR law, to solve the antinomies existing between national and the ECHR law.

(Council of Europe)



Comparative study of different domestic frameworks on copyright and licenses

Using disapplication to resolve conflicts between domestic and the ECHR norms. In this respect, the Italian case is symptomatic. Disapplication is allowed in other jurisdictions as well (Romania, Portugal, Spain), but national judges, for different reasons, have so far refrained from this practice.

In any case, even in these States, it is fair to underscore that the ECHR, apparently, has at least a direct effect and precedence.

But also, in setting limits on the ECHR's primacy since a particular counter-limits doctrine is emerging with regard to the ECHR. The such doctrine may however lead to situations incompatible with States' obligations under international law.

(Council of Europe)



Examples/Good Practices



The droit d'auteur (or French copyright law) developed in the 18th century at the same time as copyright developed in the United Kingdom. (Wikipedia)

Copyrights include economic rights and moral rights. French law grants copyright protection to:

"the rights of authors in all works of the mind, whatever their kind, form of expression, merit or purpose."

There are 2 main conditions for copyright protection:

- The work must be fixed in a material form (ie, on paper, in a computer program or in an electronic document) – mere ideas are not protected – and
- The work must be original (ie, it must be endowed with the personality of its author).



France has been a member of the Berne Convention since 5 December 1887, the World Trade Organization since 1 January 1995 and the WIPO Copyright Treaty since 14 March 2010.

The relevant laws are in the first book of the Code of Intellectual Property. The code includes dispositions transposed from the 1993 European directive on Copyright.

As of 2018 the World Intellectual Property Organization (WIPO), an agency of the United Nations, listed the Intellectual Property Code (consolidated version as of September 7, 2018) as the main IP law enacted by the legislature of France. WIPO Lex database.

https://commons.wikimedia.org/wiki/Commons:Copyright_rules_by_territory/France





In France, copyrights are automatically protected by both patrimonial and moral rights:

Patrimonial rights give the estate of the author sole legal right to reproduce or profit from the work until seventy years after the death of the author.

Moral rights give the author the legal right to have their work attributed to them and respected. Moral rights are eternally granted and cannot be transferred onto another.

Both of these protections are automatically granted in France and do not need to be applied for.

<https://www.transatlantic-lawyer.com/how-to-protect-intellectual-property-in-france/>



Quizzes



1 -If a work is not in the copyright office's records, that means it is not protected by copyright , and you can use it freely.

True

False

2- When does someone get copyright protection?

When the author gets paid

As soon as the work created

When it is published with a © symbol

When it is registered for copyright



Quizzes



3 –What happens to the work after the copyright time has passed?

It can be bought

There is no time-limit on copyright

The work must be destroyed

It goes to the public domain

4- Something must have the sign to be copyrighted
True, how else would you know if it was in the public domain or not

False, a work belongs to the creator whether or not there is a @symbol



Quizzes



5 – How long does a copyright last?

Life of the creator +20 years

50 years

Life of the creator +70 years

100 years

6 – You can use works in the public domain without violating copyright

True

False



References

[https://www.aia.org/articles/49506-six-steps-to-protect-against-copyright-infri](https://www.aia.org/articles/49506-six-steps-to-protect-against-copyright-infr)
https://en.wikipedia.org/wiki/Open_science

