

Definition

- Original, v.1.1: [English](#)
- Translations, v.1.1: [العربية](#) • [български](#) • [català](#) • [čeština](#) • [Deutsch](#) • [Ελληνικά](#) • [Esperanto](#) • [español](#) • [فارسی](#) • [français](#) • [galego](#) • [hrvatski](#) • [italiano](#) • [한국어](#) • [македонски](#) • [मराठी](#) • [norsk bokmål](#) • [Nederlands](#) • [norsk nynorsk](#) • [polski](#) • [português](#) • [română](#) • [русский](#) • [slovenčina](#) • [slovenščina](#) • [svenska](#) • [Tiếng Việt](#)
- Translations, v.1.0 (update/review pending): [suomi](#)
- [More in progress](#)

Stable version

This is the stable version 1.1 of the definition. The version number will be updated as the definition develops. The editable version of the definition can be found at [Definition/Unstable](#). See [authoring process](#) for more information, and see [translations](#) if you want to contribute a version in another language.

version **1.0**

Summary

This document defines "Free Cultural Works" as works or expressions which can be freely studied, applied, copied and/or modified, by anyone, for any purpose. It also describes certain permissible restrictions that respect or protect these essential freedoms. The definition distinguishes between *free works*, and *free licenses* which can be used to legally protect the status of a free work. The definition itself is *not* a license; it is a tool to determine whether a work or license should be considered "free."

Preamble

Social and technological advances make it possible for a growing part of humanity to *access, create, modify, publish and distribute* various kinds of works - artworks, scientific and educational materials, software, articles - in short: *anything that can be represented in digital form*. Many communities have formed to exercise those new possibilities and create a wealth of collectively re-usable works.

Most authors, whatever their field of activity, whatever their amateur or professional status, have a genuine interest in favoring an ecosystem where works can be spread, re-used and derived in creative ways. The easier it is to re-use and derive works, the richer our cultures become.

To ensure the graceful functioning of this ecosystem, works of authorship should be **free**, and by *freedom* we mean:

- the **freedom to use** the work and enjoy the benefits of using it
- the **freedom to study** the work and to apply knowledge acquired from it
- the **freedom to make and redistribute copies**, in whole or in part, of the information or expression
- the **freedom to make changes and improvements**, and to distribute derivative works

If authors do not take action, their works are covered by existing copyright laws, which severely limit what others can and cannot do. Authors can make their works free by choosing among a number of legal documents known as licenses. For an author, choosing to put their work under a *free license* does not mean that they lose all their rights, but it gives to anyone the freedoms listed above.

It is important that any work that claims to be free provides, practically and without any risk, the aforementioned freedoms. This is why we hereafter give a precise **definition of freedom** for licenses and for works of authorship.

Identifying Free Cultural Works

This is the *Definition of Free Cultural Works*, and when describing your work, we encourage you to make reference to this definition, as in, "This is a freely licensed work, as explained in the *Definition of Free Cultural Works*." If you do not like the term "Free Cultural Work," you can use the generic term "Free Content," or refer instead to one of the existing movements that express similar freedoms in more specific contexts. We also encourage you to use the Free Cultural Works logos and buttons, which are in the public domain.

Please be advised that such identification does *not* actually confer the rights described in this definition; for your work to be truly free, it must use one of the Free Culture Licenses or be in the public domain.

We discourage you to use other terms to identify Free Cultural Works which do not convey a clear definition of freedom, such as "Open Content" and "Open Access." These terms are often used to refer to content which is available under "less restrictive" terms than those of existing copyright laws, or even for works that are just "available on the Web".

Defining Free Culture Licenses

Licenses are legal instruments through which the owner of certain legal rights may transfer these rights to third parties. Free Culture Licenses do not take any rights away -- they are always optional to accept, and if accepted, they grant freedoms which copyright law alone does not provide. When accepted, they never limit or reduce existing exemptions in copyright laws.

Essential freedoms

In order to be recognized as "free" under this definition, a license must grant the following freedoms without limitation:

- **The freedom to use and perform the work:** The licensee must be allowed to make any use, private or public, of the work. For kinds of works where it is relevant, this freedom should include all derived uses ("related rights") such as performing or interpreting the work. There must be no exception regarding, for example, political or religious considerations.
- **The freedom to study the work and apply the information:** The licensee must be allowed to examine the work and to use the knowledge gained from the work in any way. The license may not, for example, restrict "reverse engineering".
- **The freedom to redistribute copies:** Copies may be sold, swapped or given away for free, as part of a larger work, a collection, or independently. There must be no limit on the amount of information that can be copied. There must also not be any limit on who can copy the information or on where the information can be copied.

- **The freedom to distribute derivative works:** In order to give everyone the ability to improve upon a work, the license must not limit the freedom to distribute a modified version (or, for physical works, a work somehow derived from the original), regardless of the intent and purpose of such modifications. However, some restrictions may be applied to protect these essential freedoms or the attribution of authors (see below).

Permissible restrictions

Not all restrictions on the use or distribution of works impede essential freedoms. In particular, requirements for attribution, for symmetric collaboration (i.e., "copyleft"), and for the protection of essential freedom are considered permissible restrictions.

Defining Free Cultural Works

In order to be considered free, a work *must* be covered by a Free Culture License, or its legal status *must* provide the same *essential freedoms* enumerated above. It is not, however, a sufficient condition. Indeed, a specific work may be non-free in other ways that restrict the essential freedoms. These are the additional conditions in order for a work to be considered free:

- **Availability of source data:** Where a final work has been obtained through the compilation or processing of a source file or multiple source files, all underlying source data should be available alongside the work itself under the same conditions. This can be the score of a musical composition, the models used in a 3D scene, the data of a scientific publication, the source code of a computer application, or any other such information.
- **Use of a free format:** For digital files, the format in which the work is made available should not be protected by patents, unless a world-wide, unlimited and irrevocable royalty-free grant is given to make use of the patented technology. While non-free formats may sometimes be used for practical reasons, a free format copy *must* be available for the work to be considered free.
- **No technical restrictions:** The work must be available in a form where no technical measures are used to limit the freedoms enumerated above.
- **No other restrictions or limitations:** The work itself must not be covered by legal restrictions (patents, contracts, etc.) or limitations (such as privacy rights) which would impede the freedoms enumerated above. A work may make use of existing legal exemptions to copyright (in order to cite copyrighted works), though only the portions of it which are unambiguously free constitute a free work.

In other words, whenever the user of a work cannot legally or practically exercise his or her basic freedoms, the work cannot be considered and should not be called "free."

Further reading

- See [Licenses](#) for discussion of individual licenses, and whether they meet this definition or not.
- See [History](#) for acknowledgments and background on this definition.
- See the [FAQ](#) for some questions and answers.
- See [Portal:Index](#) for topic-specific pages about free cultural works.

Versioning

New versions of this definition shall be released as soon as a consensus (achieved directly or through a vote, as per the authoring process) has developed around suggested changes. Numbering shall be 0.x for initial draft releases, 1.x, 2.x .. for major releases, x.1, x.2 .. for minor releases. A minor release is made when the text is modified in ways which do not have an impact on the scope of existing or hypothetical licenses covered by this definition.

Retrieved from "<https://freedomdefined.org/index.php?title=Definition&oldid=19268>"

This page was last edited on 17 February 2015, at 17:57.

Content is available under [Attribution 2.5](#) unless otherwise noted.

Licenses

For a list of individual license pages found on this wiki, see [Prefix Index: "Licenses"](http://freedomdefined.org/index.php?title=Special%3APrefixIndex&prefix=Licenses%2F&namespace=0) (<http://freedomdefined.org/index.php?title=Special%3APrefixIndex&prefix=Licenses%2F&namespace=0>)

Contents

Comparison of Licenses

Criteria for choosing a license

- Intended scope
- Copyleft
- Practical modifiability
- Attribution
- Related rights
- Access control prohibition
- Worldwide applicability

List of licenses

- Against DRM
- BSD-like non-copyleft licenses
- CC0 Public Domain Dedication
- CERN OHL
- Creative Commons Attribution
- Creative Commons Attribution ShareAlike
- Design Science License
- FreeBSD Documentation License
- Free Art License
- GNU Free Documentation License
 - Invariant sections
- GNU General Public License
- Lizenz für Freie Inhalte
- MirOS Licence
- MIT License
- Open Publication License
- Open Source Hardware

Commentary on non-free licenses

Comparison of Licenses

<u>License</u>	<u>Intended scope</u>	<u>Copyleft</u>	<u>Practical modifiability</u>	<u>Attribution</u>	<u>Related rights</u>	<u>Access control prohibition</u>	<u>Worldwide applicability</u>
<u>Against DRM</u>	Works of art	Normal	No	Copyright notice	Granted	Licensor & Licensee	Exact translations
<u>CC0 Public Domain Dedication</u>	Generic	No	No	No	No	No	Same license (English version)
<u>Creative Commons Attribution</u>	Generic	No	No	Yes	No	Yes	National adaptations
<u>Creative Commons Attribution ShareAlike</u>	Generic	Normal	No	Yes	No	Yes	National adaptations
<u>Design Science License</u>	Generic, optimally science data	Normal	Yes	Copyright notice	No	No	Same license (English version)
<u>Free Art License</u>	Works of art	Normal	Yes	Yes	Yes	Yes	Exact translations (French law)
<u>FreeBSD Documentation License</u>	Documentation	No	Yes	Copyright notice	Yes	Yes	Same license (English version)
<u>GNU Free Documentation License</u>	Documentation	Normal	Yes	Yes	Yes	Yes	Same license (English version)
<u>GNU Lesser General Public License</u>	Generic, optimally Software	Weak	Yes	Copyright notice	Yes	Yes	Same license (English version)
<u>GNU General Public License</u>	Generic, optimally Software	Strong	Yes	Copyright notice	Yes	Version 3 prohibits "Tivoisation" in certain cases	Same license (English version)
<u>Lizenz für Freie Inhalte</u>	Generic	Normal	Yes	Yes	Yes	Yes	Unknown (license text is German)
<u>MirOS Licence</u>	Generic (software, content, ...)	No	Yes	Copyright notice	Yes	No	Same licence (English version)
<u>MIT License</u>	Software	No	Yes	Copyright notice	Yes	Yes	Same license (English version)

Criteria for choosing a license

We explain hereafter some of the criteria which may influence your choice of a free content license. Those criteria are not inherently good or bad. The importance of each criteria depends on the context (for example the kind of work, or the kind of collaborative process you want to encourage), and on personal preferences.

This list is not meant to be exhaustive. Other aspects may be important, like the clarity of the wording of a license, or the philosophy which is defended by its authors, or whether the license is surrounded by an active community of authors.

Endly, we want to stress that, **before choosing a license, you must read the license text carefully**. No summary, no matter how attractive or reassuring, can replace detailed understanding of the license itself.

Intended scope

Some licenses strive to be as generic as is humanly (or rather, legally) possible. Others deliberately focus on a specific domain of creation, like software, or documentation. When a license has such a focus, it doesn't mean that it cannot be used for other kinds of works, but that its main area of use (and thus its social recognition as a trustable license) is clearly bounded.

For example, the GNU GPL can be used for many kinds of works, but its main area of recognition is software.

Copyleft



When a work is "copylefted", it means all derived works (even if they mix in other works as well) must be distributed under the same terms (usually the same exact license) as the original work.

Therefore, using a copyleft license pretty much guarantees that users of subsequent works (for example modified copies) will be granted the same essential freedoms. Conversely, a derivative of a non-copylefted work can be distributed under different terms, and even be rendered non-free. On the other hand, a copyleft license can also limit opportunities for re-use, because most copyleft licenses are not compatible between each other. This is why people sometimes prefer non-copyleft license, depending on the work and the kind of practices they want to encourage. Copyleft licenses are sometimes even considered to be non-free because of the restrictions for redistribution of the works.

ShareAlike is a synonym of *copyleft* in the Creative Commons vocabulary.

Strong copyleft also forbids linking or integration the subject work into larger works/projects that are not also licensed with a license with compatible copyleft terms. Weak copyleft lacks such a 'viral copyleft' requirement.

Practical modifiability



Although all free licenses give you the *legal* right to modify, not all of them try to specify how modifiability of the work is *practically* enforced. Requiring modifiability is important, especially for works which can be distributed under a completely opaque format such as software binary code ("*object code*").

The licenses which require practical modifiability usually define a notion of *source code*, *source data* or similar. The GNU FDL defines *transparent copies* and disallows use of technological protection measures (TPM). The Creative Commons licenses disallow use of TPMs.

Attribution



Requiring attribution means that authorship for the work must be recognized in any circumstances. In the context of derived works (modified copies), this includes the initial as well as subsequent authors and contributors. Some licenses will mandate *how* an author is to be credited: for instance, only the person's name, a name alongside contact information or a link to the person's homepage, or possibly under a pseudonym.

It is often stated that all licenses can implicitly require attribution, as they mandate that the copyright notice must be kept intact when distributing copies. By including up-to-date authorship information in the copyright notice, one can indeed forbid subsequent works to erase that information. However, future contributions to the work are not guaranteed to be also credited using such a mechanism; indeed, it is based on the good will of authors (or maintainers) of subsequent works. Having an Attribution requirement prevents this from happening and mandates that all subsequent works have the same policy in mentioning authorship.

Attribution is a double-edged sword, as it may become a heavy burden to list all contributors for projects which imply seamless and massive collaboration (like Wikipedia). For many works it is, however, a reasonable requirement.

Related rights



Related rights concern not the mere copying and modification of the work, but its use in a derived manner: for example, performing the work, displaying it in public or private, broadcasting, webcasting, etc. Related rights exist for various areas of creation (songs, theater...); they often belong to people other than the authors of the work, such as performers, producers of phonograms, etc.

Some free content licenses take care to also grant related rights to the recipient of the work. There may even be a copyleft provision which states that related works (interpretations, performances, recordings) must be released under the same license as the work.

Access control prohibition



Some licenses contain a clause, which forbids to control access to the licensed content. In some licenses this clause concerns only the licensee (licensor can use access control systems to forbid not granted rights).

→ DRM

Worldwide applicability

When distributing a free work over the world, it is important to understand how people from other countries will be able to reuse this work.

License writers have adopted three different strategies regarding the internationalization of their licenses:

- *same license for everyone*: only the original license text (often in English) is given legal value, and translations may be provided purely for information purposes;
- *exact translations*: translations of the original license text are provided, which all have legal value; those translations have exactly the same clauses and wording as the original text;
- *local adaptations*: the license is rewritten according to each national legal system.

Attention: some licenses use a specific national law: so you cannot interpret the license through your national law, but through the law specified in the license. For example, Free Art License uses French law (you must pay attention to French law also if the license is written in English, German or other languages).

The two first schemes ensure that everyone is given the same rights. In the third scheme (local adaptations), similarity and equivalence of the different versions should be carefully examined.

According to advocates of the adaptation scheme, licenses must be rewritten in order to cope with the peculiarities of the various legal systems. This position is held by the Creative Commons organization.

According to opponents of the adaptation scheme, having different national versions of a license presents the risk to break trust and interoperability. Also, they stress that the Berne Convention for the Protection of Literary and Artistic Works (http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html) provides a framework which, with careful drafting, allows to write internationally applicable license texts. This position is held by the Free Software Foundation and by the Free Art License authors.

List of licenses

Against DRM

- current version: 2.0
- author: Free Creations (<https://web.archive.org/web/20170327160130/http://www.freecreations.org/>)
- reference URL (English):
https://web.archive.org/web/20170327160245/http://www.freecreations.org:80/Against_DRM2.html
- reference URL (Spanish):
https://web.archive.org/web/20160702030610/http://www.freecreations.org/Against_DRM2_es1.html

BSD-like non-copyleft licenses

In parallel with the set of GNU licenses (including the GNU GPL), the free software world evolved a number of very simple permissive (copyleft) licenses. These licenses are so simple that no dedicated text is needed to expose the terms of the license. To reuse such a license, you must take its text and replace the copyright notice with your own. Since these licenses are non-copyleft, changing the license text in such a way does not prevent reuse between works from happening.

Regardless of their wording, these licenses always grant the user very broad rights, including the right to modify and distribute without supplying any source code. Also, their concise wording makes them simple to understand and unambiguous as to their effects.

These licenses are often called "BSD-like" because the first occurrence of such a license has been the license under which the Berkeley Software Distribution (one of the first free versions of Unix (<http://en.wikipedia.org/wiki/Unix>)) was shipped to users.

One should distinguish the original BSD license with its controversial *advertising clause* (<http://www.gnu.org/philosophy/bsd.html>) from the revised BSD license that does not have the advertising clause.

CC0 Public Domain Dedication

- Aliases: CC-0, Creative Commons Zero
- Current version: 1.0

CERN OHL

The CERN Open Hardware License (CERN OHL) is a license used in open-source hardware projects ([OSHW](#)).

- [Wikipedia: CERN Open Hardware License](#)
- <http://www.ohwr.org/projects/cernohl/wiki>

Creative Commons Attribution

- Aliases: [CC-BY](#)
- Current version: [4.0](#)

Creative Commons Attribution ShareAlike

- Aliases: [CC-BY-SA](#)
- Current version: [4.0](#)

Design Science License

- *Not maintained anymore*
- [License text \(English\) \(http://www.gnu.org/licenses/dsl.html\)](http://www.gnu.org/licenses/dsl.html)

FreeBSD Documentation License

- author: [FreeBSD Project \(http://www.freebsd.org/\)](http://www.freebsd.org/)
- reference URL: <http://www.freebsd.org/copyright/freebsd-doc-license.html> (<http://www.freebsd.org/copyright/freebsd-doc-license.html>)

Although especially written for the FreeBSD project, this license shows you how to draft a very simple non-copyleft license for documentation works.

Free Art License

- Aliases: License Arte Libre, FAL, LAL
- Current version: 1.3
- author: [Copyleft Attitude \(http://artlibre.org/\)](http://artlibre.org/)
- [License text \(English, version 1.3\) \(http://artlibre.org/lal/en\)](http://artlibre.org/lal/en)
- [License text \(French\) \(http://artlibre.org/licence/lal/\)](http://artlibre.org/licence/lal/)

GNU Free Documentation License

- Aliases: GNU FDL, GFDL, FDL
- Current version: 1.3
- [License text \(English\) \(http://www.gnu.org/copyleft/fdl.html\)](http://www.gnu.org/copyleft/fdl.html)

Invariant sections

Invariant sections are a special provision of the GFDL which, if used, prevent anyone from modifying the parts of the work which are defined as "invariant". The Free Software Foundation finds it useful to protect some special "non-functional" parts of the work, like a statement of intent (the motivation for invariant sections was, allegedly, to prevent the GNU Manifesto to be removed or modified in GNU documentations).

We believe, however, that freedom should apply to all kind of works, and that what is "functional" in one situation can be "artistic" in another - and vice-versa. Consequently, a work using invariant sections to forbid some kinds of modifications to the work cannot be considered completely free.

Unless additional permissions are granted, all FDL works contain unmodifiable sections which aren't called *Invariant Sections*, such as a copy of the license embedded in the document itself.

GNU General Public License

- Aliases: GNU GPL, GPL
- Current version: 3.0
- Author: [Free Software Foundation \(http://www.fsf.org/\)](http://www.fsf.org/)
- License text (English) (<http://www.gnu.org/copyleft/gpl.html>)

The GNU GPL is, according to various statistics, probably the most used free software license. It was also the first license to implement the concept of copyleft, guaranteeing that "GPL'ed" free software cannot become, or take part in, non-free software.

Although the GPL is primarily intended for software programs, it is worded so as to apply to many different kinds of works. The main condition for the GPL to be applicable to a type of work is that it admits the notion of a *preferred form of a work for making modifications to it* (be it source code in a computer language, music score notation, digital graphics under a format retaining structure, etc.). For example, there are many occurrences of text or graphics released under the GPL.

Lizenz für Freie Inhalte

- Aliases: LFFI
- License Text (German) (<http://www.neppstar.net/webstar/freieinhalte-webstar.html>)

AFAIK only used by the german portal neppstar for free music and video. Anyway, it seems to be a valid free license.

MirOS Licence

- Aliases: MirBSD, MirOS
- reference URL: <http://mirbsd.de/MirOS-Licence> (<http://mirbsd.de/MirOS-Licence>)
- other conformance: DFSG, OSD (OSI approved), OKD (OKFN approved)

This licence is intended as the European variant of the BSD/MIT licences, but applicable as widely as possible. It shifts focus away from code/software by using the generic term "work" (of authorship), and as such can be used for mostly everything (code, documentation, audiovisual content, possibly others; for example fonts in jurisdictions where they are protected by copyright law). It's intended as a permissive or "Copyleft" licence (so no copyleft, as that would be a restriction; basically "do what you want, leave me alone, but give due credits") with as few strings as possible attached (so no "forced freedom" anti-DRM clauses, etc.) and weighs in less than one Kibibyte. Most permissions are enumerated, but the grant is not limited to them. Attribution is required by retaining the copyright notices, licence and disclaimer (this is not a copyleft though) or reproducing it in the accompanying documents (the BSD world is all about credits being given but freedom being unrestricted and not enforced). The disclaimer's wording has been modified to meet certain European law requirements.

MIT License

- author: MIT
- reference URL: <http://www.opensource.org/osi3.0/licenses/mit-license.php> (<http://www.opensource.org/osi3.0/licenses/mit-license.php>)

This license is arguably the simplest form of the BSD-like licenses for software. All the license, except for the no-warranty statement, is condensed in two short paragraphs.

There are variants, like the [current BSD license](http://www.opensource.org/licenses/bsd-license.php) (<http://www.opensource.org/licenses/bsd-license.php>) which has an additional provision forbidding endorsement of derived works using the name of the original authors.

Open Publication License

The Open Publication License (OPL) was among the earliest open-content licenses -- it predates the 2002 GFDL by over 3 years.

The Fedora project selected the OPL for their documentation. (At various times, the Fedora project released their documentation under the GNU FDL, the OPL, and CC-by-SA. See https://fedoraproject.org/wiki/Archive:Relicensing_OPL_to_CC_BY_SA?rd=Relicensing_OPL_to_CC_BY_SA <http://iquaid.org/2009/07/06/why-relicense-fedora-documentation-and-wiki-content/> for details).

- <http://opencontent.org/openpub/>
- David Wiley. "About the Open Publication License" (<http://opencontent.org/blog/archives/329>).

Open Source Hardware

Open Source Hardware [OSHW](#) is apparently "a standard by which to evaluate licenses for hardware designs".

- http://clothbot.com/wiki/Open_Source_Hardware

Commentary on non-free licenses

- [Essay about the Creative Commons non-commercial restriction](#)
 - [Editorial on the Creative Commons no-derivatives restriction](#)
 - [Article on Redis non-free custom license \(https://sfconservancy.org/blog/2018/aug/22/commons-clause/\)](https://sfconservancy.org/blog/2018/aug/22/commons-clause/)
-

Retrieved from "<https://freedomdefined.org/index.php?title=Licenses&oldid=24530>"

This page was last edited on 13 February 2021, at 20:21.

Content is available under [Attribution 2.5](#) unless otherwise noted.

Licenses/NC

- Translations: [Deutsch \(German\)](#) - [Español \(Spanish\)](#) - [Français \(French\)](#) - [Hrvatski \(Croatian\)](#) - [Nederlands \(Dutch\)](#) - [Português \(Portuguese\)](#)
- Requested translations: [日本語 \(Japanese\)](#) - [Ελληνικά \(Greek\)](#)

The case for Free use: reasons not to use a Creative Commons -NC license

When the [Creative Commons \(http://www.creativecommons.org\)](http://www.creativecommons.org) project published its first licenses in December 2002, it finally brought a sense of unity to the free culture movement. Instead of having to choose from many scattered licenses, authors now have the option to pick the right license for their work using a [simple tool \(http://creativecommons.org/license/\)](http://creativecommons.org/license/). They only have to answer basic questions like: “Allow commercial uses? Allow modifications?”

The tool then recommends one of the licenses developed by the Creative Commons team. They are legally sane, simple documents, specially adapted for various jurisdictions. In short, the Creative Commons project has made life a lot easier for everyone wanting to share content.

One particular licensing option, however, is a growing problem for the free culture community. It is the *allow non-commercial use only* (-NC) option. The “non-commercial use only” variants of the Creative Commons licenses are **non-free**, and can in one way make the situation worse than the traditional copyright model: many people can or will make the licensing choice only once. In a collaborative context, license changes can be difficult or even impossible. It is therefore crucial that the choice is an informed one.

The key problems with -NC licenses are as follows:

- They make your work **incompatible** with a growing body of free content, even if you do want to allow derivative works or combinations.
- They may rule out other **basic and beneficial uses** which you want to allow.
- They support current, near-infinite **copyright terms**.
- They are *unlikely* to increase the potential **profit** from your work, and a share-alike license serves the goal to protect your work from unethical exploitation equally well.

There may be circumstances where -NC is the only (and therefore best) available option, but that number of circumstances should decrease as the business models around free content evolve.

Contents

The case for Free use: reasons not to use a Creative Commons -NC license

Incompatibility

Basic and beneficial uses

Existing copyright terms

Profit

Conclusions

- For content authors
- For content users
- For Creative Commons

Counter-arguments and their rebuttals

- Protecting the commons
- Preventing a schism
- Unite behind the things that really matter

Further reading

Examples of confusion arising from NC provision

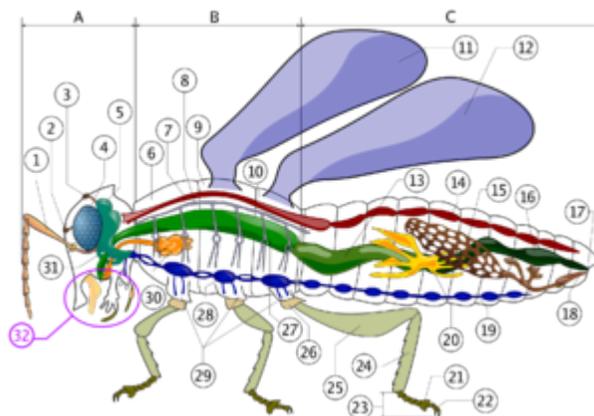
Incompatibility

Millions of people use free content every day. Wikipedia (<http://www.wikipedia.org/>) is freely licensed and is among the 10 most visited websites on the planet (<http://www.alexa.com/siteinfo/wikipedia.org>). Today, many of the most popular search engines directly use content from Wikipedia in their integrated results. This extended use of Wikipedia works because the license explicitly *allows and encourages* commercial use.

Now, if you choose an -NC license for your work, it will be incompatible with Wikipedia, other Wikimedia projects, and many other free content projects, large and small.

Wikipedia's licensing (CC-BY-SA (<http://creativecommons.org/licenses/by-sa/3.0/>) and GNU Free Documentation License (<http://www.gnu.org/copyleft/fdl.html>)) uses the *copyleft* (or, in Creative Commons terminology, “share-alike”) principle: You can make derivative works, but they have to be licensed under the same terms. You cannot add an -NC restriction to derivatives and so you cannot use any -NC material in derivatives of copyleft work because you can no longer apply the commercially-allowed “share-alike” license to the entire work.

In Creative Commons own compatibility chart (https://wiki.creativecommons.org/Wiki/cc_license_compatibility) they indicate that although it there may be exceptions that make it technically possible to create derivative work licensed CC-BY or CC-BY-SA if it has any CC-NC content, “CC does not recommend using these combinations”. Maintaining boundaries between parts of a work where some is -NC and some is not is almost impossible in a collaborative environment. Imagine a website with collaboratively edited text that is *partially* -NC licensed. As text is copied from one region to another and modifications are made, it is likely that the licenses will be violated.



One of over 60,000,000 free photos, illustrations, sounds and videos uploaded to the Wikimedia Commons (<http://commons.wikimedia.org/>), the media repository used by Wikipedia and its sister projects. All files on the Commons must be free for commercial use. This drawing of insect anatomy by Piotr Jaworski is licensed under the Creative Commons Attribution/Share-Alike license.

Many free content communities reject -NC licenses simply for philosophical reasons like the ones outlined in this article. For example, the [Wikimedia Commons](http://commons.wikimedia.org/) (<http://commons.wikimedia.org/>), a media repository operated by Wikipedia's [Wikimedia Foundation](http://www.wikimediafoundation.org/) (<http://www.wikimediafoundation.org/>) which contains more than 41,000,000 files, does not allow uploads under restrictive licenses such as the -NC variants.

Allowing commercial use is also fundamental in the free software community. Both the [Open Source Definition](http://opensource.org/docs/definition.php) (<http://opensource.org/docs/definition.php>) and the [Free Software Definition](http://www.gnu.org/philosophy/free-sw.html) (<http://www.gnu.org/philosophy/free-sw.html>) explicitly state that sale and other commercial uses must be allowed for a license to be considered free. The allowance of commercial use and the avoidance of the compatibility problems that come with non-commercial terms are a big part of the widespread adoption of free software.

In the scientific community, free licensing is growing as well. The [Public Library of Science](http://www.plos.org/index.php) (<http://www.plos.org/index.php>) recognizes the [Open Access Definition](http://www.plos.org/oa/definition.html) (<http://www.plos.org/oa/definition.html>) for scientific content which permits commercial use and so have other large open access publishers such as [BioMed Central](http://www.biomedcentral.com/) (<http://www.biomedcentral.com/>). Scientific knowledge, they reason, ought to be as freely available as possible.

Communities like Wikimedia, Debian, or the scientific Open Access movement do not exist for their own gain – they provide free knowledge and free software to the world. Putting your own content under a license recognized by these communities will keep it alive, and will encourage people to make active use of it in many different contexts. This does not merely apply to inherently collaborative works; almost any conceivable work in demand can be usefully transformed or incorporated into a collaborative context.

Basic and beneficial uses

What is commercial use? The relevant clause out of Creative Commons non-commercial (“-NC”) licenses, such as the “Attribution-NonCommercial” license, is this one:

You may not exercise any of the rights granted to You ... in any manner that is primarily intended for or directed toward commercial advantage or private monetary compensation.

Many bloggers and blog communities on the web use advertising as a way to recoup costs and generate income. Popular bloggers, from Andrew Sullivan to Markos Zúniga (Dailykos), have turned their hobbies into professions, but even smaller publications often use Google Ads to attempt making some extra money. Other sites use small-scale subscription models to unlock additional features and content or disable advertising. Ask yourself if you really want to stop all these individuals from using your work.

Compilations which are sold are another example of commercial use. For example, if a music file which is licensed for non-commercial use only is included among thousands on a DVD collecting free music and sold for a small personal profit, that is a violation of the license. Note that it is not the amount of the financial gain which matters, it is the intention of the user. Intentions are, of course, difficult to prove, and in many cases, it is best to be cautious. Even under liberal interpretations, any use in a corporate context would almost certainly be *forbidden*, such as the inclusion of the file on a CD bundled with a computer magazine.

Worse still are the effects that -NC licenses can have on people in the developing world, where entrepreneurship represents an opportunity to overcome poverty and the digital divide. People with basic access to freely licensed materials can redistribute them at a small profit using more traditional means such as photocopying or CD burning. In the absence of large scale government programs to broaden Internet access or distribute free content, market forces can play a clearly beneficial role in

spreading free knowledge and free culture. Given cultural, language and access barriers, the common argument of -NC proponents that permitting commercial use *on request* is sufficient to allow for desirable uses, is at odds with reality.

Existing copyright terms

For a long time, international copyright law has been written by content distributors. This has resulted in effectively infinite copyright terms. A work which is published in 2010 will remain covered until 2100 if the author dies in 2030 (the duration of copyright in the United States and Europe is generally “life of the author plus 70 years”). This does not even take into account possible future, retroactive copyright term extensions (nor, of course, reductions – but such reductions have never happened so far).

While you may feel you are making a donation to the public domain when licensing your work under an -NC variant, you are effectively supporting the existing, extremely long international copyright terms. The restrictions on commercial use will remain in place until the copyright of your work expires which, for most practical purposes, is *never*.

To solve this problem, you could specify that the work falls back to a more permissive license such as CC-BY (attribution only), or to the public domain, after 5 years or any other amount. You could also choose a more permissive license to begin with.

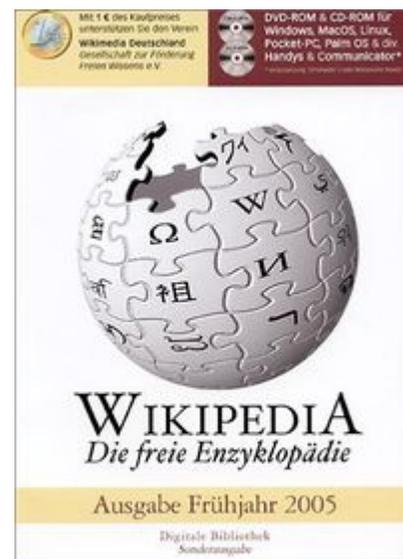
Profit

The most obvious argument in favor of -NC licenses is that they protect your work from commercial exploitation by others. First, it is important to realize that there are commercial scenarios which are not affected by your license choice. This includes support and tutoring, documentation, commentary, sampling, and many other uses *around* the work which are legal regardless of the license. Whatever your license says, the user does not have to accept it, and can simply treat the work as if it were under normal copyright. What -NC can regulate are distribution and modification of the work itself *beyond* what the law allows.

However, keep in mind that in this age, large scale distribution is no longer the exclusive domain of large corporations – it can be done by anyone with an Internet connection or a DVD burner. Even large files like movies can be effectively distributed using mechanisms such as BitTorrent (<https://en.wikipedia.org/wiki/BitTorrent>). This means that if your work is popular and of high quality, it *will* be available on the Internet for free – because the license makes it possible.

The moment you choose any Creative Commons license, you choose to give away your work. Any market built around content which is available for free must either rely on goodwill or ignorance.

The potential to benefit financially from mere distribution is therefore quite small. Where it exists due to a predominance of old media, it is likely to disappear rapidly. The people who are likely to be hurt by an -NC license are not large corporations, but small publications like weblogs, advertising-funded radio stations, or local newspapers.



The German Wikipedia DVD is an example of undeniably beneficial commercial use of free content that would not have been possible under an NC license, even by special permission, as every Wikipedia contributor would have needed to agree.

Indeed, to make a substantial profit with your work, a company will have to provide added value beyond what is available for free. An -NC license stops any such attempt to add value; this may be the author's intent.

There is, however, an alternative. The Creative Commons “Share-Alike” licenses require any work derived from your own to be made available as free content, as a whole. (The licenses without a share-alike clause only guarantee that the part of the work created by you remains free.) Any company trying to exploit your work will have to make their “added value” available for free to everyone. The company does not, however, need to share the income from the “added value”. Seen like this, the “risk” of exploitation turns into a potentially powerful benefit depending on the value added to the content.

This principle works very well in many areas of free content and free software development. Most notably, the Linux operating system kernel is licensed under a share-alike (or *copyleft*) license. Many companies make use of customized versions of the kernel, for example, to include it in embedded devices (<http://www.linuxdevices.com/>). All improvements made by these companies can be used by the main Linux kernel development team. If the kernel were under an -NC license, the commercial use of Linux would be impossible.

Another interesting tale of commercial use is the German DVD version of Wikipedia. Produced by a company called Directmedia (<http://www.directmedia.de/>), it has quickly become a bestseller in Amazon.de's software category. Yet, to make that DVD, Directmedia had to cooperate with Wikipedians – who helped to prepare the data by making it searchable and sortable, and to weed out articles not ready for publication. Directmedia has, in return, donated a substantial percentage of the profits from the DVD to Wikipedia's mother organization. The monetary donation, while not required, does help to maintain goodwill with the community. It has also made a separate “donation” of 10,000 reproductions of public domain paintings to the Wikimedia Commons.

The Wikipedia DVD was a working business model because it provided added value in two ways; new offline reader software was created and a well-organized effort to whip the content into shape. It also showed that beyond the copyleft principles, any highly successful cooperation with commercial entities around free content is likely to depend on mutual goodwill. Another illustration of the same principle is Answers.com (<http://www.answers.com/>), a commercial Wikipedia mirror, whose parent company chooses to pay for one of Wikimedia's developers, and has also been one of the sponsors of Wikimedia's 2005 conference, Wikimania. None of this was required by the license.

Commercial use can be highly mutually beneficial where it does occur. The Share-Alike principle, while not applicable to monetary benefits, does protect the content from abusive exploitation without forbidding experiments. These experiments, however, are essential to build a true, innovative economy around free content. Especially when dealing with collaborative works, -NC makes such commercial experiments practically impossible, as every single contributor would have to give explicit permission.

One final factor to keep in mind, especially for wide-spread small scale exploitation, is the enforceability of the license. For example, Wikipedia's Creative Commons BY-SA license (<http://creativecommons.org/licenses/by-sa/3.0/>) requires that content users link back to the relevant Wikipedia articles, and point out that the document is freely licensed. As is evident from a brief look at Wikipedia's own list of mirrors and forks by compliance (http://en.wikipedia.org/wiki/Wikipedia:Mirrors_and_forks/GFDL_Compliance), many content mirrors completely ignore the CC-BY-SA. Some even systematically remove all evidence that the content is from Wikipedia. Such behavior, while illegal, is difficult to punish, as mirrors reside in many different countries. Many have been quickly set up, without anyone in charge of operations.

Even though Wikipedia is a large community with a reasonably well-funded parent organization, it is clear that it is hard to enforce even very basic licensing requirements on free content. Ask yourself whether you are truly willing and able to enforce violations of an -NC license. Otherwise, the only people you punish with the restriction are those who are careful to respect your wishes -- people who are likely to be amenable to friendly cooperation anyway.

Still, you might feel that your work should not be used to *legally* set up mirrors that effectively spam search engines. There are two responses to this; one social, and the other technological. The social response is that no matter what license, if any, you choose for your work, you can still make your feelings and expectations about the use of your work clear without making them legally binding, and can choose to associate with people who respect your values.

The technological response is that all forms of spam represent weaknesses in information and communication infrastructure. Most of today's search engines still rely on a relatively dumb "spider everything" approach. Under this model, free content will always be used as fodder to get profitable rankings. It seems unwise to make a decision about licensing based on flaws of current search engine technology.¹

¹ Most simply, Google and its competitors could make an effort to better aggregate duplicate search results under the main site result. Combining search and social networking to take into account user perception and creator reputation seems like a logical next step.

Conclusions

For content authors

The use of an -NC license is very rarely justifiable on economic or ideological grounds.

It excludes many people, from free content communities to small scale commercial users, while the decision to give away your work for free already effectively ends any large scale commercial publishing from pay-for-access type businesses. If you want to obtain additional protection against large scale exploitation, use a Share-Alike license. This applies doubly to governments and educational or scientific institutions: content which is of high cultural or educational value should be made available under conditions which will ensure its widespread use. Unfortunately, these institutions are often the most likely to choose -NC licenses.

As we have seen, *special permission* ("You can use my work in this context, but in no other") is frequently *insufficient*. It also defeats the point of free content licenses: reducing friction by making it possible, for humans and machines, to instantly find content that is usable in a desired context.

However, you might still argue that as an author, you could simply wait until anyone actually expresses interest in using your work under a more liberal license than the -NC variant you provide it under. Most use scenarios, however, will not be of a kind where an alternative to using your content is unthinkable. Human beings, especially in volunteer online communities, tend to take the path of least resistance and least offense.

You might feel that a certain amount of friction can be helpful, that you want to track usage of your work, and enter interactions with those who wish to go beyond what the license allows. But to achieve this, you can simply state: "*You are free to use this work in any way you want to, as long as you attribute me as the author. Depending on the scope of the use, it would be nice if you could also tell me about it.*"

Using a suggestion like this, you avoid friction, while still defining your expectations for those who want to be on friendly terms with you. In all aspects of life, we have our own standards of conduct, and we avoid people whose standards are incompatible with ours. Choosing permissive licenses or the public domain is an expression of the power of choice in association. Taking a lesson from Wikipedia, it's a simple statement that most human beings are essentially trying to do the right thing. Working together, we can try to educate or isolate those who are not, without the need for lawyers to get involved. We can develop and refine mechanisms to track usage, such as trackback in blogs, and build large but entirely voluntary associations of people who share a moral obligation to try to give back when they take.

Prohibiting commercial use except by special permission, on the other hand, puts you on the fringes of the free content movement, where the beer is free, but the philosophy is shallow. You lose much of the potential for your work to be improved, combined, aggregated and shared by those who believe in unrestricted freedom of use. You exchange the opportunity to be part of a dramatic shift in the ideology of ideas for a vague sense of security. At the same time, you give up much of the opportunity to make money the old-fashioned way by making the content in question perpetually available for free.

Recognizable and genuine free content communities can only evolve around the principle of true freedom. You have the chance to send a clear message whenever you license your own works. You have the chance to be heard, amplified by the voices of free content supporters around the planet.

If you *must* use an -NC license for one reason or another, please do add an additional notice specifying the duration of the copyright you desire for your work. Otherwise, traditional copyright law will apply, and commercial use will be forbidden long beyond your death.

For content users

If you see work online which is licensed under an -NC license, please kindly thank the author for making their work available for free, and ask them to change the license (feel free to include a copy of this text, or a link to the network location where you found it).

Strategically, it also makes sense to systematically seek out individuals and entities which provide large bodies of work under -NC terms, and to lobby them to change these terms. At the very least, this will raise awareness of the issues with -NC.

Do not make a derivative work of an -NC work. Even if you don't need to use the product for commercial use, you limit the work because it can never be included in a BY-SA work.

For Creative Commons

As a project with the goal to make licensing choices simple, Creative Commons has a responsibility to inform its users about the drawbacks of licenses which forbid commercial uses. Many individuals who choose an -NC license are unaware of the implications of such a decision. The fact that Creative Commons openly advertises (<http://creativecommons.org/about/licenses/how1>) the -NC option in its communications is not helpful to that end. At the very least, the license selection screen should include a brief summary like the following:

Note that forbidding commercial use will prevent your work from being used by any free content community that makes its entire body of work available under more permissive terms. This includes large knowledge bases such as Wikipedia, some open source software distributions, and also some media repositories. It will also prevent *all* primarily commercial uses of your work, large and small, unless you explicitly approve them. The "Share-Alike" licenses reduce the risk of

exploitation by requiring that any derivative work is made available under the same terms, while drastically reducing incompatibility and not forbidding all commercial uses.

Hopefully, Creative Commons will contribute to the effort of informing creators that the seemingly simple choice of forbidding commercial use is not so simple at all.

EDIT: This has been done, to some extent^[1].

Counter-arguments and their rebuttals

In private discussions with Lawrence Lessig, as well as in his public communications and speeches such as the one he gave at the 23rd Chaos Communication Congress (<http://video.google.com/videoplay?docid=7661663613180520595>), he has responded at some length to the points raised in this essay and others. Other explicit proponents of -NC licensing (of which there are few) hold similar views. The arguments can be summarized as follows:

Protecting the commons

“-NC licensing is to some works (music, photos) as the copyleft principle is to others: both principles protect the commons.” The core of this argument is that copyleft alone is not sufficient to protect musicians and photographers from commercial exploitation. There are too many scenarios, the argument continues, where a work can be taken into a context such as a compilation or an article, for commercial gain, and the copyleft principle does not “kick in” because the newly created work is not a *derivative* but rather an *aggregate*.

It is true that some works are more likely to be directly altered and improved than others. However, copyleft was only ever meant to apply to such improvements. The philosophy of copyleft explicitly allows and encourages commercial use of the work beyond that, and as has been demonstrated above, there are many beneficial commercial use scenarios that have resulted from this. -NC licensing is therefore not a legitimate philosophical analogy to copyleft. Where copyleft is aimed at protecting and enlarging the commons, -NC licensing is aimed at protecting and enlarging the wealth of copyright holders. It represents an *enclosure* (utilizing the traditional monopoly rights granted by copyright law), rather than a commons. However, with the 3.0 BY-SA (<http://creativecommons.org/licenses/by-sa/3.0/legalcode>) license, the issue of collections is addressed, and collections are explicitly required to attribute the work and link to its license.

Moreover, the argument sets up a *false dichotomy* (http://en.wikipedia.org/wiki/False_dichotomy). Even if one believes that some works need additional protection beyond copyleft, it does not follow that -NC licensing is the solution. It is equally imaginable to extend the principle of copyleft beyond the distribution of direct derivatives, for example. Such discussions have already taken place in the free software community, where the proliferation of web services poses a very real challenge to copyleft: Under existing copyleft licenses, a company that makes improvements to a web server application such as a discussion forum does not need to share these improvements if it merely uses the software to provide a service, but does not distribute it. While it is unlikely that the copyleft principle will be significantly altered to address this perceived problem, nobody would propose to lock out commercial uses to do so.

Interestingly, in his 23C3 speech, Lessig listed “wiki” as a type of work where copyleft might be a sufficient protection, and distinguished it from other works such as pictures and music. However, “wiki” is not a type of work; it is a *methodology* of open collaboration that can be applied to any work, be it text, photo, video, sound, or images. Indeed, wiki software such as *MediaWiki* (<http://www.mediawiki.org/>) not only supports versioning for uploaded files, but provides an *open API* (<http://>

www.mediawiki.org/wiki/Manual:External_editors) for editing any file with an external application. And such collaboration is happening. One only needs to look at, for instance, Wikipedia's "Featured Picture Candidates" (http://en.wikipedia.org/wiki/Wikipedia:Featured_picture_candidates), a kind of open community workshop for nominating, discussing and improving Wikipedia's greatest illustrations and photos. Here, pictures often undergo extensive community revision before they are finally listed among Wikipedia's finest. For drawings in particular, translations of labels are also very common.

Projects like [MetaVid](http://metavid.ucsc.edu/) (<http://metavid.ucsc.edu/>) show that wiki-like collaboration and annotation is even possible around video files, opening some exciting possibilities of collaborative filmmaking. If, as Lessig argues, copyleft is right for "wiki", then copyleft is right for any work for which beneficial revisions or transformations are imaginable.

Preventing a schism

"The arguments against -NC licensing cause an unnecessary schism in the free culture movement."

This observation does not support the notion that the -NC restriction is sustained by a community with an explicitly shared value system. Where the -NC restriction is used, it is typically in a value-neutral context where individual copyright holders are given a wide set of licensing choices (such as the Flickr photo-sharing community). In contrast, very few communities and groups have made the -NC restriction an explicit *conditio sine qua non*. The observable distinct ideologies appear to be therefore more likely one of *freedom of culture* and *freedom of authors*, where the former movement seeks to build a commons with guaranteed freedoms (almost always including commercial use), and the latter seeks to give authors a wide array of choices for licensing.

If an additional schism arises, it is not because of the advocacy against -NC licensing, since the value system which rejects the restriction clearly predates the Creative Commons movement. Rather, it would be advocacy *in favor* of forming an explicit community of -NC users which would create a *third way*, a new ideology that does not presently exist in an identifiable form. In contrast, the pragmatic movement to give authors new licensing choices and to raise awareness thereof has always been and will always be distinct from the identifiable *free culture* movement which rejects specific restrictions. Advocacy against -NC licensing merely emphasizes this distinction.

A closely related argument states that the advocacy against -NC licensing is essentially an attempt by one group of software geeks to impose their view on freedom on very different cultural communities. It is manifestly untrue that this definition of free culture is only common among software developers — very large free culture communities like Wikimedia and the Open Access movement are clearly distinct from the free software movement — and second, as noted above, *there is no observable alternative ideology* beyond one of "pragmatic choice." This attitude of "author's choice" exists in the software community as well: authors of [freeware](#) and [shareware](#) do not use free licensing, and often restrict use in other ways. They are united only by minimal pragmatic principles, and their ideologies, insofar as they ever have existed, are eclipsed by the free software movement.

Unite behind the things that really matter

"We need to focus on what is really important." According to this argument, we should postpone any discussion about -NC licensing and unite behind issues we can agree on, such as reducing copyright terms, fighting against Digital Restrictions Management (DRM), or liberating orphaned works.

This is again a false dilemma. The process of *defining an ideology of free culture* does not harm the process of *pursuing campaigns towards specific ends*. An ideology is meant to build a sustained commitment towards a particular set of values; a campaign seeks to achieve a well-defined goal. It is impossible to reach an objective judgment about which of these activities is *more important*, but they are not in any way mutually exclusive. Social networking makes it possible for individuals to organize around particular campaigns, regardless of their ideologies.

There is, however, one important truth connected to this argument: hostility hurts us all. When ideology becomes dogma, and when movements become factions, important (essential!) common causes are all too easily set aside. Therefore, the discussion about issues such as this must always be pursued in an atmosphere of mutual respect and understanding. Those who poison this atmosphere with anger and irrational animosity must not be permitted to lead, regardless of how virtuous they may appear.

Further reading

- Benjamin Mako Hill: *Towards a Standard of Freedom: Creative Commons and the Free Software Movement* (http://mako.cc/writing/toward_a_standard_of_freedom.html). Criticizes the Creative Commons project for failing to “draw a line in the sand” when it comes to defining free licenses. Compare the version published on Advogato (<http://advogato.org/article/851.html>) with attached discussion forum.
- Erik Möller: *Creative Commons -NC Considered Harmful* (<http://www.kuro5hin.org/story/2005/9/11/16331/0655>). An older version of this article with an attached discussion forum.
- *Why the CBC banned Creative Commons music from its shows* (<http://arstechnica.com/media/news/2010/10/cbc-radio-fans-crabby-over-creative-commons-snob.ars>). The Canadian Broadcasting Company's difficulties with NC-licensed content.
- Paul Klimpel: *Free Knowledge based on Creative Commons Licenses* (http://openglam.org/files/2013/01/iRights_CC-NC_Guide_English.pdf)
- Aaron Wolf: *Discussion of NC incompatibility with Wikimedia BY-SA resources in creating a non-commercial video for song about brain anatomy* (<http://blog.wolftune.com/2011/07/brain-parts-song-video.html>)

Examples of confusion arising from NC provision

- <http://www.quora.com/Creative-Commons/Can-I-use-Creative-Commons-NC-licensed-music-as-hold-music-on-my-company-phone-system>

Erik Möller 2005-2007. This article is in the public domain (<http://creativecommons.org/publicdomain/zero/1.0>). Feel free to use it for any purpose. It is also a living document whose editable main copy resides at <http://freedomdefined.org/Licenses/NC> (<http://freedomdefined.org/Licenses/NC>). You are encouraged, but not required, to include this notice.

1. <https://creativecommons.org/share-your-work/public-domain/freeworks>
-

Retrieved from "<https://freedomdefined.org/index.php?title=Licenses/NC&oldid=23744>"

This page was last edited on 27 April 2020, at 20:46.

Content is available under [Attribution 2.5](#) unless otherwise noted.

Licenses/ND

Rantifesto

If you tinker with software, you can improve it. You can also break it or make it worse, but the Freedom to Tinker is one of the foundational 4 Freedoms of Free Software. Your software may also be used for purposes you don't like, used by “bad people,” or even used against you; the Four Freedoms wisely counsel us to GET OVER IT.

Unfortunately, The Free Software Foundation does not extend “Freedom to Tinker” to Culture. Cultural works released by the Free Software Foundation come with “No Derivatives” restrictions. They rationalize it here (<http://www.gnu.org/licenses/license-list.html#OpinionLicenses>):

Works that express someone's opinion—memoirs, editorials, and so on—serve a fundamentally different purpose than works for practical use like software and documentation. Because of this, we expect them to provide recipients with a different set of permissions (*notice how users are now called "recipients," and their Freedoms are now called "permissions" --NP*): just the permission to copy and distribute the work verbatim.

The problem with this is that it is dead wrong. You do not know what purposes your works might serve others. You do not know how works might be found “practical” by others. To claim to understand the limits of “utility” of cultural works betrays an irrational bias toward software and against all other creative work. It is anti-Art, valuing software above the rest of culture. It says coders alone are entitled to Freedom, but everyone else can suck it. Use of -ND restrictions is an unjustifiable infringement on the freedom of others.

For example, here I have violated the Free Software Foundation's No-Derivatives license:

The Four Freedoms of Free Culture:

1. The freedom to run, view, hear, read, play, perform, or otherwise attend to the Work;
2. The freedom to study, analyze, and dissect copies of the Work, and adapt it to your needs;
3. The freedom to redistribute copies so you can help your neighbor;
4. The freedom to distribute copies of your modified versions to others. By doing this you can give the whole community a chance to benefit from your changes.

Without permission, I've created a derivative work: the Four Freedoms of Free Culture. Although I violated FSF's No-Derivatives license [*Editor's note: not necessarily--copyrightability of the excerpt and fair use must be weighed.*], they violated Freedoms # 2 and 4, so we're even.

Nina Paley's Rantifesto (<http://questioncopyright.org/rantifesto>) is released to the public and can be considered to be in the public domain: you may copy, share, excerpt, modify, and distribute modified versions. This article was adapted from a talk given at the Open Knowledge Conference 2011 and originally published on NinaPaley.com and QuestionCopyright.org.

Retrieved from "<https://freedomdefined.org/index.php?title=Licenses/ND&oldid=14684>"

This page was last edited on 20 January 2013, at 06:30.

Content is available under [Attribution 2.5](#) unless otherwise noted.

FAQ

Contents

Is there really a need for this? We already have so many licenses.

So what do I need to put my work under this definition then?

What are the primary uses of this definition?

Aren't you pretty arrogant for wanting to decide for everyone what's free?

Why don't you have any moderators who are professional (NAME PROFESSION)?

But how will people make money under this definition?

What about logos? Why do all open source / free content-supportive organisations currently have copyrighted logos?

What about other kinds of commons, like grains, electromagnetic spectrum, genetic information? They need a "freedom" definition, too.

Who wrote this? Who administers the site?

Why isn't a Non-Commercial restriction considered free?

Why isn't a NoDerivatives restriction considered free?

Is there really a need for this? We already have so many licenses.

The Free Content and Expression Definition is not a license, it is a list of conditions under which a work must be available in order to be considered "free". In other words, it is a way to classify existing licenses. At the time the first draft of the definition was published (June 30, 2010), no such definition existed for free content (two definitions existed for free software).

So what do I need to put my work under this definition then?

As the definition is not a license, but only classifies which licenses can be considered free, you have to pick one of these [licenses](#) and apply them to your work (usually by attaching a text such as "This work is licensed under the Creative Commons Attribution CC-BY-SA-3.0 license" with a link to the license text). If you want to express your support for free content, you can [help us design logos and buttons](#).

What are the primary uses of this definition?

There are two primary goals:

1. To bring unity and clarity to the growing free content and free expression movements. We believe that a successful social movement must first define its goals and its vision and then communicate

these to others. The definition helps with the first part while logos and other awareness materials can help with the second. Finally, while this website is not a community site in the traditional sense, it may help to bring together people from different free content projects, and could lead to new web sites and organizations specifically targeted at the free content movement.

2. To make communications with copyright holders more effective. Often, people state that their work is "free", "open content", or "open access", without qualifying this. The Creative Commons licenses are a good example of this: the Creative Commons logo simply states, generically, "Some Rights Reserved", and you have to click on the logo to find out which ones. It is very common for people to simply say that their work is "under a Creative Commons license" (https://startpage.com/do/metasearch.pl?cmd=process_search&query=%22under+a+Creative+Commons+license%22&language=english&cat=web&with_language=&with_region=&pl=&ff=&rl=&hmb=1&abp=-1). This can mean many things, including, in the extreme cases, licenses which restrict the use of a work to certain world regions, or which forbid both commercial use and derivative works. This definition allows you to simply ask: "Is it *free content*?". When the answer is "yes", you'll know precisely which rights you have even though some terms of these licenses are different.

Aren't you pretty arrogant for wanting to decide for everyone what's free?

We do not attempt to monopolize the definition of "free"; we just define what "free" means according to **freedomdefined.org** only (not to everyone), and we propose this definition as a "default meaning" in discussions to avoid ambiguity, ease communication and make discussions more productive.

To ensure that this is a reasonable and widely accepted definition, we are basing our work on the existing philosophies of free software and open source, on the existing policies of projects like Wikipedia, and on a strong moral conviction that as many works as reasonably possible should be available to all human beings, as freely as possible. People are welcome to release their works as something other than Free Content or Free Expression. In the short term, most people will. Many will try to use "semi-free" licenses.

Of course, we do not claim or seek a monopoly on the word "free". You are free (no pun intended) to use these terms as you wish, to argue for a different set of essential freedoms, or to attempt to redirect this definition by working with us. You are welcome to create your own term, defined differently, and use that.

Why don't you have any moderators who are professional (NAME PROFESSION)?

It may be that the right person hasn't volunteered yet. More importantly though, it's important to realize that we can't have a professional novelist, and a musician, and a lawyer, and a DJ, and a painter, and a collage artist, and a dancer, etc. There aren't that many spaces for moderators. Of course, we welcome feedback from every individual or group and are especially careful to take into account viewpoints that we think are unrepresented or new.

With that said, everyone involved in this project, and especially the moderators, produces, consumes, and distributes content or expression every day. While some of the freedoms listed here are freedoms designed primarily for the producers, we are also talking about the consumers of content and working hard to blur the lines between the two groups. We are all stakeholders in the process and we all -- creators, consumers, and most of us that are both -- have a voice that should be heard. The moderators

have been picked not because they are particular representative of the world of creators as a group but because they respected, principled, in touch with much larger groups of creators, and willing to take into account others' opinions.

But how will people make money under this definition?

There are many ways that people make money distributing free content and expression. They tend to differ based on the type of work and many other factors. Of course, the point of this definition is not to list these (although someone could create a page in this wiki to do exactly that). The point is to describe essential freedom. Once we have challenged ourselves to produce and consume content and expression more ethically, it becomes our *responsibility* to find ways to do so that are economically sustainable. Unless we challenge ourselves, there is a much lower incentive to ever go out on a limb and try.

We also want to point out that the exact same question can be asked about the current copyright system. Most authors do not make a substantial amount of money from their works (many do not even make money at all). Some authors do manage to make money, but at the price of totally giving up control of their works to large publishers (especially in the USA, where total transfer of all rights by contract is possible and moral rights do not exist practically). Many artists of high value remained poor during much of their life, because their talent was recognized too late. Thus the question of *how authors can make money from their work* is not tied to the mere licensing model of the work (free vs. not free), but to the economic system surrounding authorship and to the social and cultural conditions of recognition.

What about logos? Why do all open source / free content-supportive organisations currently have copyrighted logos?

Many organisations like Creative Commons, the Open Source Initiative, or Wikimedia like to protect their identity using trademarks and copyrights. It should be noted that relatively few people in these organisations are opposed to copyright *per se*; in fact, the copyleft principle makes use of copyright to protect the freedom of works. The argument of these organisations is not one against copyright, but one for additional freedoms.

Nevertheless, a case can be made that logos and symbols should be freely shared, and that trademarks should be avoided -- taking the "right to fork" (<http://www.usemod.com/cgi-bin/mb.pl?RightToFork>) to an extreme. Under this model, the identity of the project is not protected by law, and anyone can try to assume the same identity by adopting it for a different project. The marketplace of ideas is the final arbiter of success. This is true for the free content logo we're trying to create, which will be in the public domain.

What about other kinds of commons, like grains, electromagnetic spectrum, genetic information? They need a "freedom" definition, too.

The Free Content Definition is about works of the human mind (and craft). This category is legally but also philosophically justified: creation of works - art works, free software works, free hardware design, machine design, whatever - is a well-defined philosophical concept. Various other kinds of commons (like material commons) do not belong to this category.

Since we are not proposing a Manifesto (which can be vague, broad, and very encompassing) but a Definition (which must be based on firm conceptual ground), trying to find a "one-size-fits-all" ethical message would destroy the meaning of the message and transform it into a meaningless slogan. But staying inside the boundaries of a clearly defined category of things helps us remain meaningful, and powerful.

We encourage other people to try and give a definition for "freedom of genetic information", "freedom of water resources", "freedom of electromagnetic spectrum", etc. But we cannot do it in the framework of this Definition, because the issues are very different and it would be sterile to try to explain them in the same terms as free contents.

Who wrote this? Who administers the site?

→ [Moderators](#)

Why isn't a Non-Commercial restriction considered free?

See [discussion on this wiki](#)

Also:

- [Why the NC permission culture simply doesn't work \(http://robmyers.org/2006/11/09/why-the-nc-permission-culture-simply-doesnt-work/\)](http://robmyers.org/2006/11/09/why-the-nc-permission-culture-simply-doesnt-work/)
- [Non-commercial ShareAlike is not copyleft \(http://robmyers.org/2008/02/24/noncommercial-sharealike-is-not-copyleft/\)](http://robmyers.org/2008/02/24/noncommercial-sharealike-is-not-copyleft/)

Why isn't a NoDerivatives restriction considered free?

A NoDerivatives restriction in a license does not allow you the user to freely modify, remix, adapt, or build upon a work, thus restricting your fundamental freedom to that cultural expression. Truly free licenses will lack NoDerivatives clauses, which will allow you to crop photographs, remix audio, changes the names and settings in fictional text, or modify software for your specific needs as an end user.

Retrieved from "<https://freedomdefined.org/index.php?title=FAQ&oldid=23928>"

This page was last edited on 9 August 2020, at 12:44.

Content is available under [Attribution 2.5](#) unless otherwise noted.