



#AskCC Twitter Chat

# Common Licensing Questions

**Question: How do copyright and a Creative Commons license coexist on a work? Is that possible?**

**Answer:** All original works of authorship are covered by copyright automatically, but that doesn't preclude a CC license. Some of the confusion comes from the perception that 'copyright' is synonymous with "All Rights Reserved," when "All Rights Reserved" is actually just one form that copyright can take. Creative Commons licenses actually work within the copyright system - rather than in place of it - to give authors more flexibility to grant rights to the public than traditional "All Rights Reserved" licenses. With a Creative Commons license, the copyright still exists on the work, but the author is able to grant rights to reuse, remix, etc, to the public.

**Question: For those unfamiliar of CC0 and Public Domain (PD), can you explain the differences?**

**Answer:** The term "public domain" gets thrown around quite often, but in a strict legal sense, public domain works are works that are free from copyright restrictions because (1) their copyright has since expired or (2) because the work is not copyrightable. That means that an author can't technically place a copyrighted work directly into the public domain - which is why Creative Commons wrote the CC0 license. The CC0 license waives and author's copyright and grants all rights of reuse to the public without restriction, *essentially* placing the work into the public domain.

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**Question: Are there particular standards for citing different kinds of CC media? For example, citing a blog post when it's re-used in OER.**

**Answer:** You should include title, author, source, and license for the CC attribution. Other questions about format are stylistic. See more here: [https://wiki.creativecommons.org/wiki/Best\\_practices\\_for\\_attribution](https://wiki.creativecommons.org/wiki/Best_practices_for_attribution)

**Question: What does a transferable permissions statement include?**

**Answer:** In general, permission to include someone's work in a resource that will have a CC license would look something like: "I hereby give you permission to include [my work] in the [resource] that will be licensed under a [name the CC license]."

**Question: Can OER match the Instructor Resources (flsh crds, ppts) that major textbook publishers offer in conjunction with their texts?**

**Answer:** This is a developing area for OER - more and more ancillary materials are created every day. Groups like the Open Textbook Network, OpenStax, and BCcampus are focused on creating high quality OER with supporting materials. Ultimately, these materials aren't free to create - there needs to be greater investment in building high quality materials that can compete head to head with traditional materials, and there need to be better platforms for sharing these materials.

**Question: If someone creates a transcript of a copyrighted podcast, can the transcript have a CC license?**

**Answer:** The short answer is: probably not. If there is enough creativity in creating the transcript to get its own copyright, however - which is possible but unlikely - then it could be licensed under CC. An important reminder though - the CC license on a transcript or any other derived work would not give permission to use the underlying work.

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**Question: Is putting CC licensed material behind a paywall a violation of the license?**

**Answer:** This is a tricky question; the text of the license says a that user cannot use DRM to restrict the use of the CC-licensed work. A paywall would likely be considered as restricting access. Here's some more information on that interaction: <http://bit.ly/drmandcclicenses>

**Question: What happens if someone does put it behind DRM?**

**Answer:** All the CC licenses come with a condition: the user of the CC-licensed work must comply with the conditions of the license in order to be granted the right to reuse, etc. Simply put, that means: if someone violates the terms of the CC license, they lose the license. More information on that in paragraph 5B: <https://creativecommons.org/licenses/by/4.0/legalcode>

**Question: Can someone post a copyrighted rubric as part of an OER?**

**Answer:** This is a general issue—when/how can you include all rights reserved material in a resource with CC licensed material? Ideally, you should do a fair use analysis. If you are relying on fair use for your case, you need to make that clear to users. Otherwise, the owner of the included material may be willing to give a someone a license to do so. Even then, those materials must be marked clearly so users understand what's CC-licensed and what is not.

**Question: It seems CC attribution styles are geared toward online use (long links). Any concise, elegant attribution solutions for print?**

**Answer:** You should include title, author, source, and license for the CC attribution. To identify the license, the URL is best - however, a court has said that naming the license (e.g. CC BY International 4.0) is okay as well. See more here: <http://bit.ly/attributec>

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**Question: I have been advised several times that “facts” cannot be copyrighted. Is this correct?**

**Answer:** Correct. Facts are not works of authorship and copyright applies only to original works of authorship. That means it's acceptable to reuse facts or information you encounter in a resource, but not to copy the particular expression of that fact in text without fair use or a license.

**Question: Is it possible to use a CC BY-SA licensed image that hasn't been changed or edited in a deck of slides, but license the whole deck CC BY?**

**Answer:** Yes, because you are not creating a derivative work with the photograph – you're reusing the original. So, the SA condition on the photo's license does not require you to license your work BY- SA. At the same time, you can't change the license on the image - so you can license your part of the deck CC BY, but the image is still CC BY-SA.

**Question: Is there a way to apply a different CC license than the standard one on Youtube?**

**Answer:** Technically, yes. YouTube integrated CC BY into their platform. But, you can identify the CC license you want to use in the video, and mention it in the comments.

**Question: If content is already licensed under CC BY, can it be changed to CC BY-NC in the future if the author prefers?**

**Answer:** The CC BY license can't be revoked to switch to a more restrictive license like CC BY NC. See for more info:

<http://bit.ly/revokingccllicenses>

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**Question: In building an open textbook, is there a right type of photos or license to use?**

**Answer:** Photos are usually covered by copyright, so the easiest path would be to look for CC-BY photos or photos in public domain.

**Question: For fair use, there are a lot of different “standards” thrown around. 10%? 1 chapter? Whichever is less? Whichever is more?**

**Answer:** Fair use is based on the facts and circumstances of the use, so it's not really possible to have specific percentages or thresholds. Instead, it's best to do a thorough analysis and when in doubt, consult a peer or your counsel. You can also check out these guides on fair use in different contexts: <http://cmsimpact.org/program/fair-use/>

**Question: Much OER content is created on proprietary platforms. The content is openly licensed, but the end user agreement could pose problems. What can we do as librarians to ensure future access and ability to share?**

**Answer:** The CC licenses are written specifically to say that platforms cannot add restrictions on use in the user agreement. However, it would definitely be worthwhile to use the freedom the license gives you to archive the content your own way as a safeguard.

**Question: Is the general consensus that academics who want to maximize the reuse of their work avoid NC?**

**Answer:** There are specific instances in which the NC license makes the most sense to use, but more generally - yes, using CC BY, rather than CC BY NC, allows the greatest possible reuse.

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**Question: If the first edition of a book is under traditional copyright, and the 2<sup>nd</sup> edition is under CC BY, is the book 'open'?**

**Answer:** Yes, if version 2 was licensed under CC BY, it is considered fully open.

**Question: If a modification is made to a CC BY NC work, it could then be licensed as CC BY, correct?**

**Answer:** If the original author modifies the work, they can re-release CC-BY. If the party is modifying someone else's work, the reused text stays NC and must be clearly marked so. Any new text can be licensed under CC BY, but must be distinguished from the NC text.

**Question: Is CC worldwide or just in the US?**

**Answer:** Yes, CC is worldwide! CC also has localized chapters like this one in the US.

**Question: Is it possible to apply fair use to one copyrighted image in a CC BY book if you cannot successfully obtain overt permission?**

**Answer:** Yes, there are times when third party content can be included only under the terms of fair use. This content must be marked differently than the rest of the CC licensed content.

**Question: If a low-res photo of an artwork/painting is available under CC-BY-SA, would a hi-res image from different source also be CC-BY-SA?**

**Answer:** Probably. Licenses apply to individual "works," regardless of which copy it's obtained from.