

Open Access to Information. Free Licenses

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In order to clarify perspectives that go beyond the limitations of copyright law, Law no. 8/1996 on copyright and neighbouring rights, we will address below several concepts regarding free licenses, the context in which creative licenses emerged, how to use these licenses.

Keywords: free licenses; Creative Commons; copyright; internet

1. Introduction

A *license* is a document stipulating what can and cannot be done with a work, be it sound, text, image or multimedia. The license includes the conditions of use and the applied restrictions. Generally, free licenses give access to the respective work, the possibility to reuse and redistribute free of restrictions, or subject to some restrictions.

For example, a text on a website under a free license may be:

- printed or distributed
- shared on another website or included in a publication
- modified or completed
- included, in part or in whole, in another written work
- used in another work, on a different media (e.g. audio or video), etc.

When a photograph is taken, a song is recorded, an article is published or a work is made available online, they are automatically protected by copyrights, as provided by the legislation in force (All Rights Reserved). This means that other people cannot reuse or remix such work without the prior consent of the author.

In order to give people the rights to distribute, use and even to reuse created works, it is necessary to publish under a Creative Commons (CC) license.

Regarding the context under which free licenses emerged the following should be mentioned:

- in 2002, the not-for-profit organization Creative Commons created the first set of licenses providing the authors with new models of dissemination and distribution of their works.
- professor Lawrence Lessig, whom we owe the emergence and success of Creative Commons licenses, reveals several details regarding the origin and inspiration source used for their creations: „Creative Commons took its idea from the Free Software Movement” (Lessig 2005).

A Creative Commons license helps establish the rights an author wishes to retain, expressly stating from the beginning to those who want to distribute the works how to reuse them, without the need to ask permission in advance.

These licenses are a free, simple and standardized means to grant permission to distribute (share) and use the works of others, in the manner originally chosen by the author.

In order to change the copyright terms from the classical "All Rights Reserved" to "Some Rights Reserved", CC licenses are used.

Creative Commons licenses are not an alternative to copyright. Copyright allows, by definition, limited reuses without the author's permission. Creative Commons licenses grant additional permission, enabling the reuse under the terms that best suit the user, while retaining some rights for the author.

Creative Commons has collaborated with experts in copyright law from around the world to ensure that the licenses are working worldwide.

Creative Commons is a global non-governmental association aiming to support a free and accessible internet, enriched by free knowledge and creative resources which can be used, distributed and developed by people all over the world.

Users searching for free and legal content have a large volume of CC licensed works. This huge variety of works of various categories and genres - from musical and video creations to scientific or academic material - is available to the public for free and legal use under the terms of Creative Commons licenses.

Creative Commons licenses are available on some of the most popular platforms of user-generated content. People that use Creative Commons licenses to release photographs, videos or blogs, contribute to the development of a global network of accessible resources, which includes works of artists, professors, scientists and governments.

By using CC, an author benefits of a license incorporating a three-layer design:

- the license prepared according to the legal norm;
- then, the legal text is worded in a more easily understandable form, called Common Deed (a simplified version stating what can be used and the attached limitations, in other words a description of the rights);
- a machine readable format using Creative Commons Rights Expression Language (CC REL).

This format provides a simple recognition and understanding of the license for authors, potential beneficiaries and even for the web tools which allow search solely for resources with an open CC license.

2. Methodology for the use of free licences

2.1 Defining the key aspects

Open licensing, as mentioned previously, leads to building a more permissive exploitation framework, observing the wishes and both patrimonial and moral rights of the author. In order to understand its purpose or, better to say, the effects that open licensing produces, it is necessary to clarify some aspects that make these alternatives possible.

First, it should be clarified what "to open" means, as a concept attached to the realities of the academic communication environment, or the open educational resources. There is a definition of the term "open" itself, which will be mentioned. This definition, released by the renown Open Knowledge Foundation (Open Knowledge International 2015) actually refers to a set of conditions that have to be met in order for a work to be deemed as truly open (Constantinescu 2012).

a) Access

The work must be provided as a whole, at no more than a reasonable one-time reproduction cost, and should be downloadable via the Internet without charge. The work must be provided in a convenient and editable form.

b) Redistribution

The license should not prevent any person from selling or freely supplying the work as a whole or as part of a collection made from works from different sources. The license should include a

compensation or any selling or distribution fee.

c) *Reuse*

The license must allow the modification of derivative works and allow the distribution of such derivatives under the same terms as those of the original work.

d) *Technical Restriction Prohibition*

The work must be provided in a form that is free of any technical measures that would restrict the exercise of the activities mentioned above. This can be achieved by providing the work in an open data format, that is, one whose specifications are public and freely available and which does not impose any monetary or other restrictions on its use.

e) *Attribution*

The license may require the attribution of contributors and creators as a condition for redistribution and reuse. If such condition is required, it should not be onerous. For instance, if the attribution is required, the work must be accompanied by the list of the persons to be mentioned.

f) *Integrity*

The license may require, as a condition for the distribution of the work in a modified form, that the modified version carry a different name or version number from the original work.

g) *Non-discrimination for persons or groups*

The license must not discriminate against any person or groups of persons.

h) *Non-discrimination for research areas*

The license must not restrict anyone who wishes to use the work in a specific area or for research purposes. For instance, it should not restrict the work from being used in a business or for genetic research.

i) *License distribution*

The rights attached to the work must apply to all to whom it is redistributed without the need to apply any additional license by such parties.

j) *The license must not be specific to a particular collection*

The rights attached to the work should not depend on the fact that such work is part of a specific collection. If the work is extracted from that collection and is used or distributed within the license terms of such work; all parties who receive the distribution of a work should have the same rights as those that are granted in conjunction with the original work.

k) *The license must not restrict the distribution of other works*

The license must not place restrictions on other works being distributed together with the licensed works. For instance, the license must not focus on the fact that all other works being distributed on the same media should be opened.

These are the terms to be met in order to ensure openness.

2.2 Rights policy depending on license type

Creative Commons licenses also stipulate the rights granted according to the type of license. The most permissive license, which retains solely moral rights "BY" ("Attribution"), assigns users the following rights on the work:

- *distribution* of the work,
- *remix* of the work,

- *modification* of the work,
- creating *derivative works*,
- make *commercial use*.

It has to be underlined that, irrespective of the type of work, moral rights are preserved. Solely after their retention, certain rights, not covered by the default application of the Copyright Law, are "waived".

Creative Commons licenses range from the most liberal, which stipulates moral rights only, to the most restrictive, which do not allow commercial use or derivation. Creative Commons licenses must be perceived correctly, as a copyright-based tool, not as a recent innovation with no correlation with the current regulatory baseline. Creative Commons licenses (simply called CC) operate within the copyright limits. The purpose of Creative Commons licenses is to create and extend the "common good". This is "commons", the concept that defines the suite.

It can be said correctly that the creator is, in fact, a person that grants licenses.

2.3 Publishing under Creative Commons

The steps to follow in order to publish under Creative Commons (CC) terms are the following:

Step 1: Choose the license features

First of all, you need to choose the usage terms applicable to the work that is to be published under a CC license:

- Attribution

All Creative Commons licenses require that any person making use of a work in any way must credit the author, in the manner requested by the author, but not in a way that may be interpreted as supporting the users or the way they use the work. In case the users wish to use the work without crediting it, or in order to request the author's support, the users must get their permission in advance.

- Non-commercial

This allows users to copy, distribute, display, interpret and modify (unless the option "No derivatives" was selected), as well as use the work in any purpose other than commercial, in which case they have to get the author's permission in advance.

- Share-alike

Users are allowed to copy, distribute, display, interpret and modify the work as long as they distribute and modify the work under the same terms. In case they wish to distribute the modified work under different terms, the author's permission is needed.

- No derivatives

Only identical copies of the author's work may be copied, distributed, displayed and interpreted. In case the users wish to modify the work, the author's permission must be obtained in advance.

Step 2: Obtaining a license

According to the options chosen, the author can obtain a license which clearly states how the work can be used.

You can find below a graphic representation of the options available for the author in selecting the appropriate license (Table 1).

Attribution		By
Attribution- Share-alike		By - SA
Attribution - non-commercial		By - NC
Attribution - No derivatives		By - ND
Attribution -Non-commercial-Share-alike		By - NC - SA
Attribution -Non-commercial-No derivatives		By - NC - ND

Table 1. Options available for the author in selecting the appropriate CC license

In order to obtain the appropriate license, the author can visit the website <http://creativecommons.org/choose>, to select Romanian language and, following the answers to several simple questions, the relevant license shall be issued.

2.4 Concept of Public Domain

In addition to the Commons concept - a common exploitation good - there is also the concept of Public Domain. The difference between the two lies in the fact that unlike *commons*, public domain is not governed by copyright, as the works are no longer under any protection (Boyle 2008). Notice that this suite of licenses is updated whenever reality requires it. Version 3 of CC license was also „adapted” (what Creative Commons calls „porting”) in Romanian. Version 4 of the licenses has recently been released. This version aims to clarify the licenses based on sui-generis data. However, Creative Commons does not recommend the use of Non-Commercial and No Derivatives licenses for databases used in academic, research or education field’ (Creative Commons 2006).

These issues are particularly relevant when academic resources stored in a digital repository are also accompanied by datasets provided for an easier replication or an independent investigation of a phenomenon.

Version 4 also brings more clarity for adapted works: translations, remixes, etc. This license model is the best suited at the moment to ensure qualitative contributions to benefit the broadest audience possible, and to enable further knowledge improvement. In fact, they will be met in all scientific works dedicated to academic communication as an authentic vehicle of collaboration.

2.5 The use of free licenses

The website http://wiki.creativecommons.org/Content_Directories contains links to books, movies, photographs and even study cases, business models and other types of content under free license.

There is a breadth of international and domestic resources with content from various domains which use Creative Commons licenses (<http://creativecommons.org/culture>).

The use of free licenses for content is a widely spread activity, the necessity of which is determined by the same reasons which justify the existence of certain exceptions or limits on the copyright. This ensures the protection of the creator's rights, without restricting the right to knowledge and without raising obstacles to new models of learning, innovation, creativity and capitalization of human potential.

Open licenses facilitate a balance of interests, which primarily benefit the authors by simply making the transaction and/or distribution terms more efficient and simpler.

3. Conclusions

Most resources published over the internet are covered by default by protection under Copyright Law no. 8/1996. Unfortunately, for many of the current needs, generated by the practice and use of digital resources, the limitations of the law are much more restrictive in the context of an ever-changing digital culture. Lifelong education, research and training must be the first beneficiaries of a new context which enables development and dissemination in a more permissive framework. This would allow the development of new mining areas for information, data and research output, in general.

To this end, new mechanisms and tools are necessary to ensure the trust and the responsible involvement of the author regarding his own content and those created by other authors. These trust mechanisms are the key factors for enforcing the copyrights in a new manner - that of collaboration and continuous exchange. Free licenses are actually the key factors that drive the necessary elements to build the frameworks mentioned above.

References

- Boyle, J. (2008) Chapter 2: Thomas Jefferson Writes a Letter, *The Public Domain: Enclosing the Commons of the Mind*, available: <https://ebooks.adelaide.edu.au/b/boyle/james/public/#h1ch2> [accessed 23.05.2017].
- Lessig, L. (2005) *CC in Review: Lawrence Lessig on How it All Began*, available: <https://creativecommons.org/weblog/entry/5668> [accessed 20.04.2017].
- Constantinescu, N. (2012) *Definiție pentru Deschis* [Open Definition], available: http://www.kosson.ro/index.php?option=com_content&view=article&id=631:definitie-deschis&catid=96&Itemid=49&lang=ro [accessed 15.08.2017].
- Creative Commons (2006) *Data*, available: http://wiki.creativecommons.org/Data#Can_databases_be_released_under_CC_licenses.3F [accessed 25.06.2017].
- Open Knowledge International (2015) *Open Definition 2.1*, available: <http://opendefinition.org/od/2.1/en/> [accessed 5.05.2017].