



INFORMATION SHEET

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Creative Commons licences

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This information sheet is for copyright owners who are interested in allowing others to use their work without payment, and whether one of the “Creative Commons” (CC) licences may be a suitable mechanism for doing so.

The first versions of the CC licences were developed for the US by Creative Commons, a non-profit corporation. These were released in December 2002. New versions of the licences have since been developed for the US, and versions have also been developed for other countries, including Australia. There are therefore many versions of the CC licences. (CC discusses why there are different licences for different countries in the “FAQs” listed at the URL at the end of this information sheet.)

The Australian versions of the licences are managed by Creative Commons Australia, based at Queensland University of Technology. The most recent versions for Australia are version 2.5. Our comments in this information sheet apply only to the “version 2.5 Australia” licences. Note, however, that Creative Commons Australia has been working on “version 3.0” for the Australian licences. Draft versions for two of these were released for comment in 2007, and we understand that Creative Commons Australia is hoping to release all the version 3.0 licences for Australia in the next few months.

Check our website at www.copyright.org.au/licensing to make sure this is the most recent version of this information sheet, and for other information related to this topic.

The purpose of this information sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.

Key points

- Before using a CC licence:
 - read the “Before Licensing” and the “FFAQ” pages page on the Creative Commons website.
 - make sure you have read and understood the “Legal Code” (the full licence) – not just the “human readable summary”.
- CC licences are not revocable (you cannot later change your mind).
- CC licences limited to “NonCommercial” uses may allow uses by profit-making organisations that indirectly benefit their business and their application in many cases may be unclear.
- Applying a CC licence to your work excludes you from getting money that would otherwise be payable to you under special provisions in the Copyright Act for educational and government use of your work.
- CC licences are not the only mechanism for allowing people to use your work for certain purposes without payment.
- CC licences are most suitable for people who do not need to generate income from other people’s use of their creative work.

CC licences developed for Australia

There are six Australian CC licences. Each contains a different combination of four licence conditions:

- “Attribution” – which requires attribution to the person who created the material;

- “NonCommercial” – which restricts some commercial uses;
- “ShareAlike” – which allows people to transform and alter the material provided the new work is offered to others under a similar licence; and
- “NoDerivs” – which restricts people from making “derivative works” such as translations, musical arrangements, and works that include part of your work with other material.

These six licences are referred to as follows:

- “Attribution”;
- “Attribution-ShareAlike”;
- “Attribution-NonCommercial”;
- “Attribution-NonCommercial-ShareAlike”;
- “Attribution-NoDerivs”; and
- “Attribution-NonCommercial-NoDerivs”.

For each licence, there is:

- the Legal Code (full licence), and
- a brief explanation of the licence (human-readable summary).

You can see each of these on the “Creative Commons Licences” page of the Creative Commons Australia website – click the name of the licence to view the summary of the licence, and click the “Legal Code (the full license)” link to view the Legal Code.

The application of the licence can be indicated by a graphical symbol representing the CC licence, followed by letters or graphical symbols representing the conditions of the licence (for example, “Attribution-NonCommercial”).

What the licences allow

Each of the Australian licences permits material to be copied, played or performed in public and distributed (including online and via peer-to-peer systems for purposes that are not “primarily intended for or directed toward commercial advantage or private monetary compensation”), provided the person who created the material – and any other person who has a copyright interest in the material – is attributed.

Some of the licences (such as the “Attribution” licence) allow people to make other uses, including for commercial purposes, and to make “derivative” works (for example, by making arrangements and translations).

Are CC licences for you?

CC licences are most likely to be attractive if you are:

- not interested in generating income from the use of your work by others in any situation; or
- interested in generating income from some uses of your work by others while allowing other uses for free.

In the second situation, however:

- the income you get from exploiting your work might be lower, because you may not be able to offer exclusive rights (for example, to record companies, film-makers or publishers interested in your work); and
- the CC licences that allow commercial use may not be suitable.

As noted on the Creative Commons website on the “Before Licensing” page:

... if you’re a musician who depends upon your music for your livelihood, you should think carefully before giving away commercial rights to your creative work. Many musicians have discovered that offering work for noncommercial use can be quite rewarding. But anything beyond that requires careful consideration. We all admire generous souls. But if you want to be generous, we want you to think carefully about it before you are.

Things you need to consider

Do you have the legal rights to offer your work under a CC licence?

You can only offer a work under a CC licence if:

- you are the sole owner of the rights granted by the licence; or
- you are a co-owner and have the consent of the other co-owner/s.

In particular, take care if:

- you are a member of a copyright collecting society such as APRA or Viscopy;
- you created the work as a salaried employee (because your employer is likely to own copyright);
- you created the work with someone else (for example, you have co-written a song or a play); or
- the material includes material that was created by someone else (such as an illustration, tunes or lyrics).

If you are a member of a collecting society, you'll need to check whether your membership agreement with the society allows you to offer the work under a CC licence. If you are a member of APRA, you'll need to make arrangements with APRA before you can offer your work under a CC licence (APRA and Creative Commons are currently discussing the relationship between APRA membership and CC licences).

There is more information about copyright collecting societies on our website at www.copyright.org.au/wp0080.

See also Creative Commons' comments on this issue on its "Before Licensing" page.

The licences are non-revocable

If you offer your work under a CC licence, and people use your work under that licence, the CC licences do not allow you to change your mind – you will not be able to stop people using the work under the licence.

You can remove the CC licence from the copy of the work on your website, but if copies are available elsewhere with the CC licence attached (on other people's websites, for example), you have no entitlement under the CC licence to prevent people from using the work under the licence from those copies.

Over time, circumstances can change, and you need to be confident that you will not want the rights back in the future. The CC licences do not allow you to grant rights for a shorter period than the full period of copyright (in most cases, your lifetime plus 70 years).

Meaning of "NonCommercial"

The three Australian 2.5 licences that contain a "NonCommercial" component prohibit commercial uses that are "**primarily** intended for or directed toward commercial advantage or private monetary compensation" [emphasis added].

We understand that there is some disagreement within the CC community about what is prohibited under this clause. In particular, we understand that there are different views about whether the following are "NonCommercial":

- use of a commercial printer by a non-profit organisation;
- broadcasts by non-commercial and community broadcasters (such as the ABC and SBS);
- use by people on websites supported by ad revenue (such as from Google ads); and
- use by non-profit organisations at events which have corporate sponsorship.

Further, we understand that CC did not intend that commercial entities would be able to rely on a licence containing a "NonCommercial" component. In our view, however, it is not clear that the current wording of the prohibition on commercial uses achieves this.

The fact that the wording prohibits only uses that are "**primarily** intended for or directed toward commercial advantage or private monetary compensation" raises the issue of whether or not commercial uses that are only **secondary** or **incidental** or **ancillary** to carrying on a business or obtaining "private monetary compensation" will be excluded. For example, it isn't clear that the following – which might otherwise generate income for creators – are clearly prohibited under these licences:

- CC-licensed music played in department stores, bars and shopping centres;
- CC-licensed artwork and photographs used by businesses on their websites or in publications such as annual reports or corporate Christmas cards; and
- CC-licensed films screened in waiting rooms and on airlines.

According to the Creative Commons website, Creative Commons “is aware of the complications related to drawing a line between commercial and noncommercial use and are working to clarify the issue” (there is more information on CC’s review process on its website, as listed toward the end of this information sheet).

No obligation to notify you about use of your work

It can be important for creators to know where and how their material is being used – or whether it’s being used at all. The CC licences, however, don’t require people to let you know they are using your work.

If you put CC-licensed material onto a website for which you get usage data, you may be able to get relevant information from that. You could use a search engine to get information about the use of your work on the Internet, but it will be difficult to get information about offline uses.

For example, if you license your work under a CC licence:

- for a film, you mightn’t get any feedback on how often or where it is screened or televised;
- for a song, you mightn’t get any information on whether or not it is broadcast or whether it’s being played as a cover by bands at concerts or other gigs; and
- for things such as poems, photos, songs, articles or books, you may get no information on how many copies are being distributed or what sort of publications they are going into.

Relationship with users

Relationships with people who use your work may be useful for a range of reasons. For example, they can give you useful information on how your work is being used, and what people think of your work, particularly when it’s used offline. CC licences do not require users to let you know that they are using your work.

Money from governments that use your work

Under the Copyright Act, governments are entitled to use most copyright material, without permission, provided they pay fees for their use to copyright owners. Most of these fees are paid via Copyright Agency Limited and Screenrights, which are copyright collecting societies (non-profit organisations that collect and distribute copyright fees for their members).

Works covered by CC licences are excluded from the government use provisions.

For more information about government use of copyright, see www.copyright.org.au/government.

Money from educational institutions that use your work

Under the Copyright Act, educational institutions are in many cases allowed to use copyright material for educational purposes, without permission, provided they pay copyright fees for their use. The fees are distributed to copyright owners by copyright collecting societies such as Copyright Agency Limited and Screenrights. Uses include digitising, emailing, making available on intranets and photocopying.

Works covered by CC licences are excluded from the educational use provisions.

For more information about educational use of copyright, see www.copyright.org.au/education.

CC licences are “take it or leave it”

Each of the six CC licences is offered on a “take it or leave it” basis.

You can choose a licence that most closely matches your needs, which may be fine if the issues not covered by the licence are minor for your purposes. On other hand, if, for example, you want to grant a licence for a limited period of time, or that is subject to a requirement for users to notify you, or that preserves your entitlement to fees for government and/or educational use, you should not use a CC licence.

Incorporating CC-licensed material into your own work

Before you incorporate CC-licensed material into your own work, you need to check that the licence is suitable for your purposes.

For example, if the work you use has a “ShareAlike” component in the licence, you need to be sure that you are happy to license your work (incorporating the CC work) on the same terms. If you later change your mind, you may need to get a copyright clearance for the incorporated work.

CC licences do not include any express warranty that the licensor is legally entitled to offer the licence, and in fact expressly exclude any warranty that the work is non-infringing. When obtaining a copyright clearance, on the other hand, it is common to seek a warranty from the person giving the clearance that they are legally entitled to do so, and the licensed work does not infringe anyone else’s copyright.

Links to information from CC

Useful links on the CC websites include the following:

- Creative Commons Australia (creativecommons.org.au);
- the “Before Licensing” page (wiki.creativecommons.org/Before_Licensing);
- the “FFAQ” page (wiki.creativecommons.org/FFAQ);
- information on the different CC licences (<http://creativecommons.org.au/licences>); and
- ongoing research into “NonCommercial” use (creativecommons.org/weblog/entry/14023).

Reproducing this information sheet

You may download and print one copy of this information sheet from our website for your reference. For anything else, please contact us.

Australian Copyright Council

The Australian Copyright Council is a non-profit organisation, partly funded by the Australia Council for the Arts, with four full-time and four part-time staff. The Council’s services include providing information, assistance and advice in response to nearly 4,000 enquiries a year, publications, training, research and submissions on copyright policy.



Australian Government



The Australian Copyright Council has been assisted by the Commonwealth Government through the Australia Council, its arts funding and advisory body.

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