



Creative Commons Licences

This fact sheet is for copyright owners who are interested in allowing others to use their work, without payment, subject to certain conditions or generally (unconditionally). In those circumstances, a Creative Commons (CC) licence may be a suitable licensing mechanism for the use of the copyright material.

Our [Copyright Essentials](#) book provides in-depth guidance on the provisions of the *Copyright Act 1968* (Cth) (Copyright Act) set out in this fact sheet. It is available for purchase from our website: copyright.org.au. Information about our education programs is available [here](#).

The purpose of this fact 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

- 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 are not the only mechanism for allowing people to use your work for certain purposes without payment.
- 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 that are limited to 'NonCommercial' uses may allow profit-making organisations to indirectly benefit their business and their application in many cases may be unclear.
- CC licences are not revocable (you cannot change your mind later).

1. Versions of CC licences

The first versions of the CC licences were developed for the United States by Creative Commons, a non-profit corporation. They were released in December 2002. New versions of the licences were subsequently developed for the United States and versions were also developed for other countries, including Australia – these local adaptations or 'ported licences' were created to ensure the licences were compatible with the different copyright legislation in different countries. The Australian versions of the licences are managed by [Creative Commons Australia](#).

However, version 4 of the licence (released in November 2013) was developed as an international licence (that can be used globally) and the use of ported licences is now discouraged.

2. Types of CC licences

There are six CC licences that are most commonly used. 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
- 'Share Alike' – which allows people to transform and alter the material provided the new work is offered to others under a similar licence, and
- 'No Derivatives' – which restricts people from making 'derivative works' such as translations, musical arrangements and works that include part of your work with other material.

The six licences are referred to as:

- Attribution (CC BY)
- Attribution-ShareAlike (CC BY-SA)
- Attribution-NoDerivs (CC BY-ND)
- Attribution-NonCommercial (CC BY-NC)
- Attribution-NonCommercial-ShareAlike (CC BY-NC-SA)
- Attribution-NonCommercial-NoDerivs (CC BY-NC-ND)

As shown above, 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 is CC BY NC).

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 available [here](#) – select the name of the licence to view the summary of the licence (referred to as the 'human-readable' summary or 'deed'), and select the 'license' link to view the full text of the licence (also referred to as the 'legal code'). The latest version of the Creative Commons licenses is version 4.0 and, as noted above, is intended to be used internationally.

3. What the licences allow

Each of the 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.

4. 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). Further, the CC licences that allow commercial use may not be suitable.

5. Things you need to consider

5.1 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 AMCOS
- 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 will 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 AMCOS, you will need to make arrangements with APRA AMCOS before you can offer your work under a CC licence.

5.2 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. Therefore, you will not be able to stop people using the work under the licence later.

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 of 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).

5.3 Meaning of 'NonCommercial'

The three 4.0 licences that contain a NonCommercial component prohibit commercial uses that are primarily intended for or directed toward commercial advantage or private monetary compensation.

We understand that there is some disagreement within the CC community about what is prohibited under this clause.

For example there are different views about whether the following are NonCommercial:

- use of a commercial printer (a commercial print run) 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 advertising revenue (such as from Google ads), and
- use by non-profit organisations at events which have corporate sponsorship.

Should commercial entities be able to rely on a licence containing a NonCommercial component? It is not clear that the wording of the prohibition on commercial uses prevents commercial entities from doing so.

The fact that the wording prohibits only uses that are ‘primarily intended for or directed towards commercial advantage or monetary compensation’ raises the issue of whether or not commercial uses that are secondary or ancillary to carrying on a business or obtaining 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 by airlines.

5.4 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.

5.5 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 is used offline. CC licences do not require users to let you know that they are using your work.

5.6 Use by government

Under the Copyright Act, there is a Statutory Government Licence pursuant to which governments are entitled to use most copyright material without permission, provided they pay fees for its use to copyright owners. The fees are distributed to copyright owners by copyright collecting societies such as Copyright Agency and Screenrights.

Applying a CC licence to your work excludes you from getting money that would otherwise be payable to you under the Statutory Government Licence scheme.

5.7 Use by educational institutions

All CC licences allow works to be used for educational purposes. As a result, teachers and students can freely copy and share a CC work without seeking the permission of the copyright owner.

Under the Copyright Act, educational institutions are in many cases allowed to use copyright material for educational purposes under a Statutory Education Licence, provided they pay copyright fees for its use to copyright owners. The fees are distributed to copyright owners by copyright collecting societies such as Copyright Agency and Screenrights. Uses include digitising, emailing, making available on intranets and photocopying.

Applying a CC licence to your work excludes you from getting money that would otherwise be payable to you under the Statutory Education Licence scheme.

5.8 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 licence approximates your requirements. 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.

6. 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

Useful links on the CC websites include the following:

- [Creative Commons Australia](#)
- [Creative Commons](#)
- [Considerations for licensors and licensees](#) (wiki Creative Commons page), and

- [Creative Commons FAQ page](#).

Frequently Asked Questions (FAQs)

I've put my photo on the Flickr Commons with a CC-BY licence. I found a commercial website using my photo as its banner. Can I do anything about this?

As long as the website attributes you correctly according to the terms of the attribution licence condition (CC-BY), there is little you can do to stop the website using your photo. Once a creative commons licence is granted, it cannot be revoked. If you want to prevent commercial use of your photos, consider placing a NonCommercial condition on the licence (for any other photos you decide to make available using a creative commons licence).

I want to use a song licensed (CC-BY-NC) in my school musical. Is there anything I need to do before using it?

Providing you attribute the creator of the song, you can use the song without permission as your use is non-commercial (educational purpose) and you are abiding by the terms of the licence. You may wish to attribute the creator of the song in the program and on the website for the musical.

I found a photo I took on the Flickr Commons with a creative commons licence on it. I didn't put it there – what can I do?

If you didn't put the creative commons licence on the photo and it is being made available on Flickr, this is an infringement of copyright in the photo. You may wish to contact Flickr and the user who posted your photo and ask them to take it down. If your photo has been shared more widely than Flickr, you may wish to contact these websites as well.

Further information

We also have a range of other fact sheets on several topics and publish books that focus on specific interest groups. Check our website for information about our publications [here](#) and details of our seminar/webinar program [here](#).

We can provide this fact sheet in an accessible format or in hard copy on request.

An Australian Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in a fact sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries. For further information about the service, see Legal Advice on our website copyright.org.au.

Reproducing this fact sheet

Our fact sheets are regularly updated – please check our website to ensure you are accessing the most current version. Should you wish to use this fact sheet for any purpose other than your reference, please contact us for assistance.

About Us

The Australian Copyright Council is an independent, not-for-profit, non-government organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia's creative industries and Australia's major copyright collecting societies. Our objectives include:

- to assist creators and other copyright owners to exercise their rights effectively
- to raise awareness in the community about the importance of copyright
- to identify and research areas of copyright law which are inadequate or unfair
- to seek changes to law and practice to enhance the effectiveness and fairness of copyright
- to foster co-operation amongst bodies representing creators and owners of copyright.

The Australian Copyright Council respectfully acknowledges the Gadigal people, the owners and custodians of the land on which our office is located. We pay our respects to the elders and to all First Nations elders: past, present and emerging. This always was and always will be Aboriginal land.



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

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