

did not invent the first free public licenses for digital content. Following the Free Software Foundation's initiative to build a public license for software, there were many others to follow and to release free licenses designed for creative content instead of software. The Art Libre License<sup>73</sup> and the Free Software Foundation's GNU Free Documentation License (GNU FDL)<sup>74</sup> are probably the most famous, but others can be found for different types of works and content.<sup>75</sup>

- 40 All these open content licenses share a common goal, which is to give authors, creators, and other rights holders the ability to offer important freedoms and share with others. However, there remains an issue when remixing content that has been licensed under different open content licenses.<sup>76</sup> Generally speaking, the copyleft or ShareAlike element of any open content license requires derivatives to be licensed under the same license only. Consequently, content available under an open content license that includes a ShareAlike element cannot be used together and remixed with content that has been licensed under another open content license, even if this license also includes a ShareAlike or copyleft element.
- 41 In the past, this was a major issue for the Wikipedia project. Before the most recent change in license adoption for Wikipedia articles,<sup>77</sup> if someone wanted to put together a movie based on a Wikipedia entry, supplemented with images licensed under a Creative Commons license on Flickr, this was not legally permitted even if it was technically possible.<sup>78</sup> The same was true for pictures, music or other content licensed under Creative Commons license BY-SA. If licensed under CC BY-SA, these materials could not legally be remixed with other creative content that was licensed under another open content license, even another copyleft license.<sup>79</sup> Obviously, the idea of building a common pool of easily accessible and pre-cleared, freely available content would fail if this problem were not addressed in the near future. One of the most important features of digital technologies, namely the possibility to take images, music and other content, remix it, and produce something new at relatively low cost yet often of high quality, would be diminished if the content were restricted to the respective license terms. Instead, with-

out interoperability, many different but not overlapping pools of creative content would be established.

- 42 In terms of the Wikipedia project, this issue has just recently been addressed by a new version of the CC BY-SA as well as a new version of the GNU FDL. Creative Commons licenses at version 3.0 allow for a new Share Alike structure in their CC BY-SA, which enables Creative Commons to certify particular licenses as being compatible with the CC BY-SA.<sup>80</sup> Once certified as being compatible, licensees of both the CC BY-SA version 3.0 and the certified "CC compatible license" will be able to relicense derivatives under either license.<sup>81</sup> Similarly, the Free Software Foundation released an update of the GNU FDL.<sup>82</sup> This new version was drafted specifically to allow Wikipedia and other projects in a similar position to make licensing changes.<sup>83</sup> Interoperability between GNU FDL and CC BY-SA, and especially the move from GNU FDL to the CC BY-SA as the primary content license for all Wikimedia Foundation projects, will foster a broader usage of Wikimedia project content including Wikipedia articles as they will be more interoperable with existing CC BY-SA content and easier to re-use.<sup>84</sup> Assuring this interoperability certainly means "*a critical step towards making this freedom work*," as Lessig commented on the announcement of the licensing decision.<sup>85</sup> There is no doubt of the significance and meaningfulness of this huge step within the free culture movement, which will hopefully serve as a template for others. But the general dilemma remains: copyleft licenses automatically restrict the respective content. This sounds particularly absurd since the motivation behind copyleft licenses is to keep the content "open" and within the pool of freely licensed material, while at the same time these licenses restrict the ability to reuse and remix.

## E. Conclusion and perspectives

- 43 Creative Commons' licenses and other tools provide an additional option for copyright creators and right holders to structure their rights in a more flexible way. In this way, the "best-of both-worlds" is offered: a way to protect creative works while encouraging certain uses of them, tailored to each creators individual preference. Creative Commons' global porting project ensures that