

Copyright, Creative Commons and Open Government for Journalists



COPYRIGHT AND FAIR DEALING

Making works

Copyright is a property right that is conferred on the creators of certain kinds of original works. Under the 1994 Copyright Act, copyright comes into existence automatically when a work is recorded in material form — for example, when you press ‘click’ on your camera or remove your pen from the page.

Usually, the owner of copyright in a work is the creator. However, when someone produces copyright works in the course of their employment, copyright to those works is usually owned by the employer.

With copyright, though, contract is king, and if a journalist and employer agree that one or other of them will own the copyright, this will override the default position under the Act. Freelancers and photographers, for example, sometimes have clauses in their contract retaining ownership of copyright.

Regardless of whether you’re an employee or a freelancer, it’s important to clarify exactly who owns the copyright in your work.

Using other people’s works

In New Zealand, Fair Dealing exceptions allow works to be used for criticism, review, private study, research and news reporting. The definition of ‘Fair’, however, is not always easy to define, and it can be difficult for journalists and publications to determine what they can and cannot use.

These exceptions can be more restrictive than many journalists may realise, and they are not consistent across all media. For example, television news may use in-copyright photos without permission, whereas print publications may not.

Some publications are using Creative Commons licensed works, as these provide clear permissions on how they can (and cannot) be used.

Using publicly funded works

The New Zealand taxpayer funds the production of an enormous amount of copyright works, including research, reports, data and educational resources.

These works are generally made available under ‘Crown Copyright’, which lasts for 100 years, or ‘All Rights Reserved Copyright’, which lasts for the life of the author plus 50 years.

Like other copyright works, these publicly funded copyright works cannot be copied, adapted or reused beyond the limited Fair Dealing exceptions without permission from the copyright holder.

CREATIVE COMMONS AND LICENSING

What's a licence?

A licence is the means by which a copyright owner gives permission for others to use a work. When you are granted a licence to use a copyright work, you are receiving permission to use the work in various pre-defined ways. A licence will usually make it clear what you can and cannot do with the work, and may specify timeframes and payment.

What's a Creative Commons licence?

The six Creative Commons (CC) licences let you as a copyright owner choose which kinds of permissions you wish to grant over your work. The more restrictive licences prevent derivative works (aka adaptations) and commercial reuse; the most open licence allows users to adapt, remix and share materials as they wish, as long as they credit the original work to the author.

The CC licences are published in human- and lawyer-readable formats, which ensures that everyone can understand what is (and is not) allowed under the terms of the licences. The licences are free, and are supported locally by Creative Commons Aotearoa New Zealand.

CC licences are used by a range of organisations and individuals in New Zealand, including government departments, Crown entities, libraries, researchers, artists, musicians, writers and over 100 schools. CC licences are used by many news organisations internationally, including ProPublica and The Conversation.

LICENCE ELEMENTS



Attribution

This means that others must credit you in the manner specified by you.



NoDerivatives

This means that others may not alter, transform or build upon this work.



ShareAlike

If others alter, transform or build upon this work, they must distribute the resulting work only under the same licence.



NonCommercial

This means that others must not use this work for commercial purposes.

COPYRIGHT AND OPEN GOVERNMENT

The NZ state sector funds, produces and houses vast numbers of copyright works, including research, datasets, images, educational resources and creative works. While progress is being made, it is still relatively rare for publicly funded works to be made available free of both price and legal restrictions on reuse.

For journalists, this means that:

- publicly funded research is often paywalled, and cannot be freely read or reused;
- publicly funded data is not released in a legally reuseable way; and,
- publicly funded works cannot be legally edited and re-published without permission.

For this reason, Creative Commons Aotearoa New Zealand argues that all publicly funded copyright works should be made available, by default, under an open Creative Commons licence.

Existing government policy

In 2010, Cabinet approved the New Zealand Government Open Access and Licensing framework (NZGOAL), which directs public service departments and encourages other state services agencies to release high-value works under a Creative Commons Attribution licence. In 2011, this was followed by the Declaration on Open and Transparent Government, which strengthened NZGOAL, specifically for high-value datasets produced or funded by the state sector.

USING (AND CREDITING) CREATIVE COMMONS LICENSED WORKS

The six main Creative Commons licences all require users to provide attribution when they show, distribute or otherwise reuse the work. A good attribution needs to provide at least four basic pieces of information, if the creator has made them available to you:

- The title of the work
- The author of the work
- A link to the source, so that others can find the original work
- The Creative Commons licence it is made available under.

There is no one right way to provide attribution — just make sure your attribution is reasonable and suited to the medium you're working with. The method you would use to provide attribution in a book, for instance, will be different from how you provide attribution on a website, a dataset, a song or a slideshow.

OFFICIAL INFORMATION ACT REQUESTS AND CC



*Bureaucracy / Bürokratie I by Christian Schnettelker at www.manoftaste.de.
Made available under a Creative Commons Attribution licence.*

The 1982 Official Information Act (OIA) allows for members of the public to request data about both themselves and the processes of government.

While the OIA is an important tool for the public to access public-sector data, there are no provisions in the OIA concerning the ability of the public to copy and reuse any data that is released. For this to happen, the data would need to be released under an open copyright licence.

In order to be able to freely reuse data and information released under the OIA — beyond the exceptions granted to journalists under the Copyright Act — Creative Commons Aotearoa New Zealand recommends that journalists request that official information be released under an open licence.

This will ensure that data and information released under the OIA is freely available to everyone to reuse, for whatever purpose they wish, without having to ask for permission in advance.

Sample statement:

Please release any data and information relevant to this request using a Creative Commons Attribution licence, following the recommendations in the New Zealand Government Open Access and Licensing framework.

HOW TO FIND CC WORKS

There are over one billion Creative Commons-licensed works available to access and reuse. While most people tend to start with Google, there are other ways to find CC-licensed works.



Finding images

Flickr

[flickr.com/creativecommons](https://www.flickr.com/creativecommons)



Finding music

Jamendo

[jamendo.com](https://www.jamendo.com)

Soundcloud

[soundcloud.com](https://www.soundcloud.com)



Finding video

Vimeo

[vimeo.org](https://www.vimeo.org)

YouTube

[youtube.com](https://www.youtube.com)



Finding in New Zealand

DigitalNZ

[digitalnz.org](https://www.digitalnz.org)



Finding general

Creative Commons search

search.creativecommons.org

Wikimedia Commons

commons.wikimedia.org



Finding icons

Noun Project

thenounproject.com

OPEN BY DEFAULT



Government agencies

Many core government agencies are actively releasing data under a CC licence, and many have CC-licensed content on their websites.



Schools

New Zealand teachers cannot legally share their teaching resources without receiving permission from their Boards of Trustees (their employers). As a result, over 100 New Zealand schools have adopted a CC policy, enabling teachers to legally share and collaborate.



Research

The vast majority of New Zealand's publicly funded research is not freely available to the public. Four universities have open access policies of various strengths. Open mandates are still being considered by research funders.



Higher education

Several polytechnics and universities are members of the OERu, a Dunedin-based charity aiming to provide higher education using only free and open educational resources. Some academics have started to write and assign free and open textbooks.



Heritage

New Zealand heritage institutions hold tens of millions of digitised works. New Zealand's three largest heritage institutions (along with many smaller institutions) are releasing works under a Creative Commons or clear 'no known copyright' statement.

Learn more about the licences:

Get a licence:

Contact us:

FAQs:

NZ Government Open Access Licensing framework:

creativecommons.org.nz/licences

creativecommons.org.nz/choose

admin@creativecommons.org.nz

wiki.creativecommons.org/Frequently_Asked_Questions

tiny.cc/nzgoal

CC LICENCE CHART

Creative Commons Licences

Can someone
use my work to
make money?

Can someone
change my work?

ATTRIBUTION



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