

Rightsstatements.org White Paper:

Recommendations for Standardized International Rights Statements

International Rights Statements Working Group, October 2015



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Executive summary

Europeana,¹ the Digital Public Library of America (DPLA),² and many other libraries, archives and other cultural heritage institutions believe that everyone should be able to engage with their cultural heritage online. We can help achieve this by giving cultural heritage institutions simple and standardized terms to summarize the copyright status of Works in their collection and how they may be used. These simple and standardized terms we call “Rights Statements.” Providing this information is essential for those who wish to actively engage with the Works they find online. Can they use it in a school report? Print it on a t-shirt? Integrate it into a commercial app?

Currently, there is no global approach to rights statements that works for a broad set of institutions, leading to a confusing proliferation of terms. Simplifying the use and application of Rights Statements benefits both contributing organizations, which share their valuable collections online through aggregators such as Europeana and the DPLA, and the people who engage with those collections. Thus, we outline minimum, baseline standards for organizations contributing to the DPLA, Europeana and any other digital aggregator that adopts the rightsstatements.org standard. Rightsstatements.org establishes the vocabulary that every organization can use to talk to their audiences about copyright and related rights in a meaningful way. It provides the technical and governance infrastructure to support their development and adoption, and ensure their on-going relevance.

In this paper, the product of a joint DPLA–Europeana Rights Statements Working Group, we recommend a series of Rights Statements that are simple, flexible and descriptive. We propose ten Rights Statements that the DPLA and Europeana partners can implement to communicate to users the copyright and related restrictions on use of Items in their collections. We propose to host these statements at rightsstatements.org, allowing each Item to which they are applied to be linked to the definitive explanation of its terms.

The Rights Statements we recommend need to be understood by both machines and humans, making the concepts around copyright and related rights clear and understandable to all. By doing that, we can educate and encourage people to use cultural heritage material to the fullest extent possible while respecting copyright and related restrictions on re-use.

The recommendations outlined in this document support a framework that promotes appropriate use of collections held by cultural heritage institutions through openness, accuracy, simplicity and clarity. The simple, flexible framework advocates for the uniform description of baseline copyright status information that is easily translatable for people and machines. This group

¹ <http://europeana.eu/>

² <http://dp.la/>

intends that this document be a call to action for institutions to implement these statements locally and to begin the work of educating their users and enhancing their abilities to re-use Works in their collections more broadly.

Glossary of terms

- **Work:** literary, creative or artistic expressions that are (or once were but are no longer) copyrightable subject matter within the relevant jurisdiction.³
- **Item:** a specific object (e.g. the specific instantiation of a Work) to which a contributing organization may apply a Rights Statement.
- **Fair Use:** a flexible limitation on copyright that allows users the right to make certain uses of copyrighted Works without permission.⁴ Primarily applicable to U.S. users though variations of this doctrine are available in other jurisdictions.
- **Public Domain:** content, metadata or other subject matter not protected by copyright or for which all copyrights have been waived.
- **License:** an agreement authorizing users (licensees) to undertake specific actions that might otherwise infringe copyright or related rights held by the licensor.
- **Rights Statement:** a mark that communicates summary information about copyright or related restrictions on the use of an Item, drawn from the set of statements published through rightsstatements.org.

How this document was created

This document was created by the International Rights Statements Working Group, which was formed in April 2014 to develop a uniform set of Rights Statements to be used as metadata elements for communicating the copyright status of digital Items. The Working Group is co-chaired by Emily Gore, Director of Content for DPLA, and Paul Keller, Director of Kennisland & Copyright Advisor to Europeana. Members were invited to join the International Rights Statements Working Groups because of their subject expertise and association with Europeana, DPLA and/or Creative Commons.

The Working Group held two initial meetings, one in April of 2014 in New York, NY, and a second in Amsterdam, the Netherlands, in October of 2014. From these meetings the Working Group decided to publish three white papers proposing recommendations on a set of international Rights Statements, a technical infrastructure, and the governance and sustainability for maintaining these statements. The Knight Foundation (US) and the European Commission (EU) graciously provided funding for this project.

³ See Berne Convention (1979), Article 2 and 2bis.

⁴ See, e.g., 17 U.S.C. § 107 (2015).

In May 2015 the Working Group, in consultation with Creative Commons⁵ and with support from Kennisland,⁶ published drafts of the two white papers: *Recommendations for Standardized International Rights Statements*⁷ and *Recommendations for the Technical Infrastructure for Standardized International Rights Statements*.⁸ Both papers were introduced and publicized to prospective users through blog posts,⁹ and opened for public comment for a period that extended through July 2015. The response included hundreds of comments from individuals in the United States, Europe and several other jurisdictions, such as New Zealand (see acknowledgments at the end of this paper).

Public comments for this white paper generally fell into six categories: 1) copyediting, factual and grammatical corrections or suggestions; 2) requests and suggestions for clarifying the meanings of terms; 3) questions and suggestions about the scope of this paper and the purpose of the Rights Statements, especially as to how they address IP rights beyond copyright; and 4) questions and suggestions about the thing to which the Rights Statements would be applied, whether the underlying Work, a “digital object”, or some other designation of a particular instantiation of a given Work; 5) questions about the role of and interaction with Rights Statements and Creative Commons Licenses; and 6) questions and suggestions about how to ensure accuracy in the use of Rights Statements as applied by contributing organizations.

After review of the public comments, the white papers were revised and expanded by Working Group members into their current form. The thoughtful and detailed public comments led to significant changes in the structure and explanation of the Rights Statements themselves, as well as important changes in the way this paper addresses the need for and application of these statements. Not all ideas that we received have been implemented. Even for those for which there was a positive reaction among the Working Group members, several suggestions, e.g. many of those regarding ways to ensure accuracy of application of the statements by contributing organizations, did not seem feasible for the initial implementation but were retained as promising ideas to revisit once a more complete governance mechanism is in place for rightsstatements.org.

⁵ <http://creativecommons.org>

⁶ <https://www.kl.nl/en/>

⁷ <https://docs.google.com/document/d/1x10JsIfi8Y74pgJJEaQMtyO5iYp0p6DO5DrOZK-5umY/edit>

⁸ <https://docs.google.com/document/d/1H6TWxGARqUMxJrc2sXjaBIOsg7UkUTb27rvtS8aC5y4/edit>

⁹ <http://dp.la/info/2015/05/11/the-principles-for-establishing-international-interoperable-rights-statements/> & <http://dp.la/info/2015/05/20/developing-and-implementing-a-technical-framework-for-interoperable-rights-statements/>

Introduction

As international aggregators of Items representing cultural heritage, our goals are to share these Items and encourage their re-use by everyone, from teachers in classrooms to app developers. On behalf of our contributing cultural heritage institutions, we share access to millions of Items, yet there is no common mechanism for informing users how they may use what we share with them. This is not just our problem, but something faced by other international and national aggregators. Our goal is to use our experience to make recommendations for a solution.

In 2009, Europeana began work on the Europeana Licensing Framework, which was launched in 2011.¹⁰ The Europeana Licensing Framework provides 13 of its own rights statements, including the eight Creative Commons tools and Licenses. The Licensing Framework requires that all data providers use these Rights Statements to label the Items in their collections before they are published via Europeana. Following the launch of the DPLA in 2013, Europeana began to explore whether and how the Europeana Licensing Framework could be adopted or extended for use by other digital heritage aggregators such as the DPLA.

Similarly, the DPLA was looking for an actionable, interoperable rights framework for the rights metadata contributed by its partners and believed that this could be accomplished by working with Europeana. Many of the DPLA's existing partners, including the HathiTrust¹¹ and NYPL,¹² are already working separately to create rights frameworks for their collections and are keen to share their expertise.

The DPLA, Europeana and our partners and advisors formed a Working Group to explore the possibilities further. We explored high-level ways to describe and express rights that facilitate legal use of their collections. This is of growing importance as collections evolve to the born-digital arena and require intentional treatment of rights matters at the time of creation to support use and re-use.

This white paper explores the need for such Rights Statements, giving due consideration to the challenges faced by institutions in determining the copyright status of the Works in their collections. It defines design principles for standardized international Rights Statements and proposes a set of ten Rights Statements to cover every scenario considered by the Working Group.

¹⁰ See Europeana Licensing Framework at <http://pro.europeana.eu/page/europeana-licensing-framework>

¹¹ <http://www.hathitrust.org/>

¹² <http://www.nypl.org/>

The Working Group designed the Rights Statements proposed here with scenarios from the DPLA and Europeana in mind. We believe a standardized set of international Rights Statements to cover any combination of copyright and re-use information has inherent value to international aggregators, such as the DPLA and Europeana, who may then select a subset of Rights Statements from the overall set that is in line with their own needs. Some will be commonly used and others may only be relevant to the two current partners (the DPLA and Europeana). When a new partner wants to use a Rights Statement, they can choose which of the ten to use, and so on. In addition, metadata about rights conditions, re-use, contact information and other pertinent data may be shared as a part of partner metadata that is supplemental to one of the ten Rights Statements.

The complexity of determining and communicating copyright status

From the perspective of aggregation platforms, contributing organizations often know the most about the copyright status of Works in their collection because they have access to the physical copy, accession records and other curatorial information that gives clues about copyright status. These institutions are the most obvious candidates for establishing the copyright status of the Works in their collections and to communicate this information to the public. Nevertheless, libraries, archives and museums increasingly recognize that choices about the use of a copyrighted Work are as much an exercise in risk assessment as they are in the straightforward application of the law.¹³

Much of this uncertainty comes not from confusion about the law, but from uncertainty about copyright-relevant facts about the Works or collections. For many Works, rights may have been assigned to unknown third parties in private contracts, making determinations based on donor agreements or other Licenses potentially incorrect. Even when one is relatively certain about who the copyright owner is, finding that person and obtaining permission is a costly and

¹³ See UCLA Library Special Collections, Risk Assessment Guidelines (2014), https://www.library.ucla.edu/sites/default/files/Guidelines_RiskAssessment.pdf; Victoria Stobo with Ronan Deazley and Ian G. Anderson, "Copyright & Risk: Scoping the Wellcome Digital Library Project" (CREATE Working Paper No. 10, 2013), <http://www.create.ac.uk/wp-content/uploads/2013/12/CREATE-Working-Paper-No.10.pdf>; Kevin L. Smith, "Copyright Risk Management: Principles and Strategies for Large-Scale Digitization Projects in Special Collections," *Research Library Issues*, June, 2012, <http://publications.arl.org/rli279/17>. For a good example of this kind of risk management in practice, see New York Public Library, "Reply Comments to Orphan Works and Mass Digitization: Notice of Inquiry" (77 F.R. 64,555, Docket No. 2012-12), March 16, 2013, http://copyright.gov/orphan/comments/noi_11302012/New-York-Public-Library.pdf (describing challenges in finding owners and clearing rights for Works relating to the 1939-1940 World's Fair).

sometimes futile exercise.¹⁴ The most intractable problems of this sort, sometimes referred to as the “Orphan Works” problem, have led libraries and other cultural heritage organizations in the United States to rely upon the doctrine of Fair Use to make these Works available.¹⁵ In the EU, cultural heritage institutions can work with a very limited exception that has been introduced by the EU Orphan Works Directive.¹⁶

Factual uncertainty is compounded by some legal uncertainty. Among other things, contributing organizations face uncertainty about which jurisdiction’s law applies and how to account for significant differences in copyright law worldwide.¹⁷ For example, the scope of the Public Domain in the United States differs significantly from the Public Domain in other nations, as does the scope of limitations and exceptions applicable to both libraries and subsequent users in any given jurisdiction under relevant copyright law.¹⁸

¹⁴ See Maggie Dickson, “Due Diligence, Futile Effort: Copyright and the Digitization of the Thomas E. Watson Papers,” 73 Am. Archivist 626 (2010), <http://archivists.metapress.com/content/16rh811120280434/fulltext.pdf> (reporting on large numbers of presumably copyrighted Works in a collection of late 19th and early 20th-century Works for which rights-holders could not be located and permission not obtained despite substantial and costly efforts to do so).

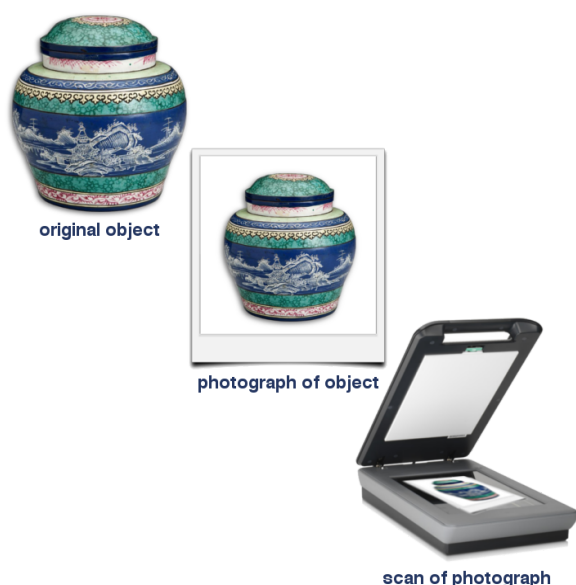
¹⁵ See, e.g., *Statement of Best Practices in Fair Use of Collections Containing Orphan Works for Libraries, Archives and Other Memory Institutions* (2014), <http://www.cmsimpact.org/fair-use/best-practices/statement-best-practices-fair-use-orphan-works-libraries-archives>.

¹⁶ Directive 2012/28/EU of the European Parliament and of the Council of October 25, 2012, on “Certain Permitted Uses of Orphan Works,” at <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:299:0005:0012:EN:PDF>.

¹⁷ See Johan Axhamn & Lucie Guibault, Institute voor Informatierecht, “Cross-Border extended collective licensing: a solution to online dissemination of Europe’s cultural heritage?” 61-72 (Aug. 2011), http://www.ivir.nl/publicaties/guibault/ECL_Europeana_final_report092011.pdf (reporting on legal uncertainty regarding cross-border dissemination of copyrighted Works).

¹⁸ Non-profit libraries and archives are unique in that they are often granted latitude, through their national law, to make certain uses of copyrighted Works despite a finding that the Work is still protected by copyright. See Kenneth Crews, WIPO, SCCR 17/2, “Study on Copyright Limitations and Exceptions for Libraries and Archives” (2008) (reviewing copyright limitations and exceptions from 149 countries, 128 of which have at least one statutory library exception); http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=109192; Kenneth Crews, WIPO, SCCR 29/3, “Study on Copyright Limitations and Exceptions for Libraries and Archives” (2014), http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=290457 (updating the 2008 study).

Identifying the Work



In addition to legal and factual challenges, contributing organizations sometimes face challenges in accurately identifying the Work to which their copyright assessment pertains. The difficulty is that copyrighted Works are often embedded within other potentially copyrighted Works. In the illustration to the left, for example, there are three potential Works represented, each of which may have separate rights. Answering “what copyright restrictions apply?” requires understanding whether the original object is a protected copyrighted Work, whether the photograph of the object created a new Work with a separate set of rights, and whether the

digital reproduction of that photograph created yet another Work with separate rights. In some jurisdictions, “slavish” reproductions, i.e. photographs or digital scans that add no new creative expression, are not separately copyrightable,¹⁹ while in other jurisdictions copyright or related rights may apply.²⁰ To further clarify the rights situation for scans, the Working Group was unanimous in strongly encouraging those contributing organizations that create scans to adopt the position that the scan should not create a new layer of copyright as a matter of policy and choice by participating institutions, and to the extent that rights are created, those rights are waived.²¹

While contributing libraries, archives and museums do their best to address these issues thoroughly, making a determination about copyright status is not a precise exercise. Varying

¹⁹ See, e.g., *Bridgeman Art Library v. Corel Corp.*, 36 F. Supp. 2d 191 (S.D.N.Y. 1999).

²⁰ For a good summary of international treatment of protection of photographs and scans of pre-existing Works, see https://commons.wikimedia.org/wiki/Commons:Reuse_of_PD-Art_photographs#Neighbouring_rights_.28.22simple_photographs.22.29. For contributing organizations in the EU, see: <http://outofcopyright.eu/semi-automated-reproduction/>.

²¹ See Europeana Public Domain Charter, <http://pro.europeana.eu/publication/the-europeana-public-domain-charter>. This position may have important implications for registrars and collections managers with regard to terms and conditions of acquisitions to the extent that gifts or purchases come with conditions related to this concern. See discussions of terms and conditions and model agreements. *Research Library Issues*, no. 279 (June 2012) <http://publications.arl.org/rli279/>.

resources, levels of institutional risk tolerance and other environmental factors mean that organizations approach copyright status in different ways.

The need for these statements

The DPLA and Europeana have enriched the free web by making openly available millions of Works from libraries, archives, museums and cultural heritage sites from their respective countries or continents. However, this burgeoning public commons is compromised by an inherent complexity of copyright laws combined with a lack of a shared vocabulary to describe legal rights that may affect the use of these Items.

With the exception of the highly tailored Europeana Data Model (EDM),²² rights and access statements in most metadata schemas contain uncontrolled values as part of current best practices, for example, narrative statements associated at the collection level without Item level information. Variations in the description of copyright status, and in the respective terms of re-use, are proliferating at an exponential rate. Reasons include international differences in copyright law, risk aversion among many non-profit institutions and the gray areas that many digitized materials fall into (e.g. unclear provenance or ownership, especially for older materials). This situation frustrates cultural heritage institutions in their efforts to understand how best to communicate copyright and re-use information about their collections.

This proliferation of non-standardized copyright or re-use information undermines the core mission of these cultural heritage institutions to “expand [the] crucial realm of openly available materials, and make those riches more easily discovered and more widely usable and used”²³ and to make “cultural heritage openly accessible in a digital way [in order] to promote the exchange of ideas and information.”²⁴ As a result of there being no widely used standard for expressing copyright status,²⁵ cultural heritage institutions have created a wide variety of different and often overlapping rights statements. For DPLA content alone, contributing organizations have used over 87,000 different rights statements.²⁶

²² <http://pro.europeana.eu/share-your-data/data-guidelines/edm-documentation>

²³ About DPLA, DPLA, <http://dp.la/info/>

²⁴ The Europeana Foundation, Europeana, <http://pro.europeana.eu/foundation>

²⁵ Rights status metadata standards do exist but are not widely used by cultural heritage organizations. See, e.g. METS Rights Declaration Schema, <http://www.loc.gov/standards/mets/news080503.html>; CopyrightMD Schema, <http://www.cdlib.org/groups/rmg/>. These standards typically seek to provide far more contextual information than those proposed here. See Maureen Whalen, “Rights Metadata Made Simple,” in *Introduction to Metadata 3.0*, at 7-8 (Murtha Baca ed., 2008), http://www.getty.edu/research/publications/electronic_publications/intrometadata/rights.pdf (identifying needs for the full set of “core” rights metadata).

²⁶ See Dean Farrell, DPLA Rights Visualization, <http://www.deanfarr.com/viz/rights.php> (illustrating the main categories of the over 26,000 different rights statements in content made available through DPLA).

To facilitate access more effectively, international aggregators need uniform and unambiguous Rights Statements that communicate the status of Works and can be used by the organizations that share data with them. This approach must not compromise the ability of those organizations to associate detailed and often unique information about copyright with the Works in their collections. At the same time, this information needs to be flexible enough to facilitate communications about copyright status to users and other contributors.

To meet these needs, copyright status information must be simplified while retaining the flexibility to account for differences among contributing organizations and their collections. The Rights Statements recommended here primarily seek to capture high-level copyright status information. It is neither possible nor necessary to account for all the granularity of, for example, an ONIX-Publications License statement.²⁷ Cultural heritage institutions using these Rights Statements can make such detailed rights information available locally.

Principles of standard Rights Statements

The Working Group recognizes that any international, standard Rights Statements must balance the need for both flexibility and accommodation of varying levels of risk tolerance on the part of contributing organization with the need for clear and definitive Rights Statements for users of the Items made available by contributing organizations. To achieve this balance, the Working Group defined five characteristics of effective Rights Statements: 1) simple, 2) flexible, 3) descriptive, 4) accurate and 5) transparent. These characteristics are intended to communicate about copyright and related restrictions placed on a particular Item made available through the DPLA and Europeana.

Simple. One of the Working Group's main goals was to define a set of Rights Statements that capture, at a high level, the most common rights situations for Items made available through the DPLA and Europeana. As we describe above, the DPLA currently contains over 87,000 different descriptions of copyright and other information. Analysis of this information alongside the known requirements of European institutions reveals that there are reasonable ways to synthesize this information about copyright and re-use into several meaningfully distinct categories.²⁸ Based on the expert input obtained in the Working Group's deliberations, along with data about existing rights metadata in the DPLA and Europeana, we believe that the ten defined Rights Statements will cover most common copyright statuses.²⁹ These statements are intended for use in situations where the standard licenses and tools already provided by Creative Commons cannot be used.

²⁷ See "ONIX for Licensing," *EDItEUR*, <http://www.editeur.org/85/overview/>.

²⁸ See Farrell, *supra* note 24.

²⁹ In 2016 the working group will also present a process that will allow external parties to propose additional Rights Statements for rightsstatements.org. This process will be part of the overall governance structure for rightsstatements.org that will be introduced in 2016.

Flexible. Because the DPLA and Europeana draw from such a wide variety of contributing organizations, the Rights Statement framework needs to accommodate differences in the approaches of organizations and international law. These differences include the types of Works in collections, institutional capacity and willingness to investigate copyright status, and institutional risk tolerance for making assertions about copyright. The Working Group recommends creating a limited set of statements that can accommodate a wide variety of practices, while operating alongside a limited, but powerful, set of tools to associate related copyright information (e.g. through reference to contractual restrictions on use).

Descriptive. The recommended elements only ask contributing organizations to categorize the copyright status of the associated Works. These recommendations do not require contributing organizations to explain their reasoning, nor do the recommendations ask contributors to make assertions prescribing how other people can use these Works. Organizations are not, for example, asked to explain why or how they have used a Work pursuant to a particular limitation or exception such as Fair Use. Fair Use and other limitations or exceptions are critically important in enabling digital uses of these Works. However, their application is not descriptive of copyright status but of the rationale for use, which often has little bearing on a third party's subsequent and different use of the Work.

Accurate. The Rights Statements should focus on the main categories of copyright and related rights; they are not necessarily comprehensive statements of all possible legal rights. The ten proposed Rights Statements are variations on the three key copyright categories (in-copyright, not in copyright and undetermined). These statements reflect our effort to address the most common issues based on our collective experience. This is an important qualification for content partners so that they can make decisions locally in light of their respective institutions' varied comfort levels in using this rubric for describing rights as accurately as possible.

Transparent. Along with accuracy, the Working Group was unanimous and unambiguous that the Rights Statements should transparently reflect copyright and related rights restrictions that apply not just to a given Work, but to the particular Item that the contributing organization has provided. While the Working Group strongly disfavours attaching restrictions on use of Works beyond those that are required by copyright law, many contributing organizations have agreed to or have been forced to recognize, for various reasons, additional restrictions on use of particular Items that they have digitized. Those restrictions require a mechanism to be transparently communicated to users. Thus, the proposed Rights Statements are designed to communicate common additional restrictions related to the use of particular Items, even when the underlying Work is in the Public Domain.³⁰

³⁰ This may have important implications for registrars and collections managers with regard to terms and conditions of acquisitions to the extent that gifts or purchases come with conditions related to this concern.

The framework developed by Creative Commons for the Creative Commons Licenses³¹ had a considerable impact on our deliberations as a matter of pragmatics and policy. The Creative Commons Licenses, as grants of rights by a rights-holder, are legally and conceptually distinct from an assessment or statement of copyright status by a contributing organization. The notion that a good-faith description of copyright status is distinct from the grant of a License by an authoritative rights-holder is an important nuance. For this reason, the group modelled aspects of the Rights Statements on the Creative Commons approach of simplicity, clarity and openness without directly adopting a licensing approach as such. Cultural heritage institutions that wish to license Works in their collections for which they control the copyright are encouraged to make use of the Creative Commons Licenses. Both Europeana and the DPLA will continue to support the use of Creative Commons Licenses, the CC0 public domain dedication and the Creative Commons Public Domain Mark as standardized Rights Statements alongside the Rights Statements proposed for rightsstatements.org.

Our approach

What this is

The Rights Statements are driven by the high-level characteristics described in this document. They are used to communicate copyright and related restrictions on Items in contributing organizations' collections.

The proposed Rights Statements can be grouped as follows: 1) in-copyright, 2) not-in-copyright or 3) undetermined. Within those three groups are more refined choices that reflect differences in national law and practice among individual contributing organizations.

These Rights Statements are intended to document the current best evidence of copyright status and re-use conditions, where possible, as determined by the contributing organization. There are caveats to using these that reusers of the items need be aware: (1) they are not conclusive proof of an asserted copyright status, nor could they be; and (2) users needing certainty about their ability to use a given Work are cautioned to make their own investigation about copyright status.

While these Rights Statements strive for simplicity, they also allow for the provision of more granular copyright information. In some cases, such as in reference to contract terms that accompany a Work designated as "No Copyright - Contractual Restrictions (NoC-CR)", this information can be provided both to provide necessary information to users and to serve as a

See discussions of terms and conditions and model agreements. *Research Library Issues*, no. 279 (June 2012) <http://publications.arl.org/rli279/>.

³¹ See <http://creativecommons.org/licenses/>.

check for contributing organizations to ensure that unnecessary restrictions are not added to Public Domain Works. Some contributing organizations already make this information available in their local metadata, for example, when deeds of gift outline contractual restrictions on use. Other records contain this information already and need only to translate it from more general statements about rights into the structured metadata that can accompany records for individual Works.

What this is not

These Rights Statements are necessarily limited to copyright and related rights, which may vary by national law. For example, assertions about the Public Domain status of a Work may be defined differently depending on the jurisdiction in which that determination is made. When possible, the Rights Statements allow for contributing organizations to provide relevant information about differences in national copyright law.

Further, other bodies of law such as publicity or privacy rights and contract may affect the overarching status of a given Work and, in turn, how a user may make use of it in a given context. As noted below, to assist people as much as possible, contributing organizations are encouraged to provide additional information about a given Item or collection locally, for example when additional contractual limitations may apply.

The proposed Rights Statements are not intended to limit use of the Works made available by contributing organizations. Aggregators and contributing organizations should help people to understand, for example, that an in-copyright status does not preclude their use under their national copyright law's limitations and exceptions. Nor is an in-copyright status designation incontrovertible; a user's own investigation may lead to a different conclusion about copyright status.

Finally the Rights Statements should not be mistaken for licenses that can be applied by the general public. The Rights Statements proposed here serve as a simple summary of the various permissions and restrictions on reuse. Before applying any of these Rights Statements to an item, cultural heritage institutions need to determine the copyright status, consider the applicability of exceptions and limitations (including Fair Use) and assess a vast number of unique and often complex licensing agreements and contractual arrangements. As a result, the Rights Statements cannot express specific terms and are not intended to be applied to works by the general public. This is an important distinction for those who engage with collections marked with the Rights Statements proposed here.

As outlined above, the Rights Statements developed by the Working Group are modelled on the human-readable deeds that Creative Commons pioneered, but the Rights Statements function

quite differently. Whereas each Creative Commons deed represents a specific standardized public license stewarded by an organization that makes them available for use by the full public, the underlying permissions and restrictions summarized in the Rights Statements are non-standard and can be quite complex.

Regardless of how useful they are for cultural heritage institutions, the Rights Statements proposed here should not be used in the same way as the Creative Commons deeds and licenses.

Specifications for international Rights Statements

Based on the recommendations of the joint Europeana–DPLA Working Group on interoperable rights statements, rightsstatements.org will initially specify ten Rights Statements. These fall into three groups: Rights Statements intended for use with in-copyright Works (5), Rights Statements for use with Works that are not in copyright (3), and Rights Statements for use with Works for which the copyright status has not been determined (2). This section provides an overview as well as detailed information about these Rights Statements.

1. High level overview of the Rights Statements

Rights Statements for Works that are in copyright

The following 5 Rights Statements are intended for use when the Item is in copyright:

1. **In Copyright (InC)** - indicates that the Item labeled with this Rights Statement is in copyright.
2. **In Copyright - EU Orphan Work (InC-OW-EU)** - indicates that the Item labeled with this Rights Statement has been identified as an 'Orphan Work' under the terms of the EU Orphan Works Directive.
3. **In Copyright - Rights-holder(s) Unlocatable or Unidentifiable (InC-RUU)** - indicates that the Item labeled with this Rights Statement has been identified as in copyright, but whose rights-holder(s) either cannot be identified or cannot be located.
4. **In Copyright - Educational Use Permitted (InC-EDU)** - indicates that the Item labeled with this Rights Statement is in copyright but that educational use is allowed without the need to obtain additional permission.
5. **In Copyright - Non-Commercial Use Permitted (InC-NC)** - indicates that the Item labeled with this Rights Statement is in copyright but that non-commercial use is allowed without the need to obtain additional permission.

Rights Statements for works that are not in copyright

Public Domain Works can be labeled with the existing [Creative Commons Public Domain Mark](https://creativecommons.org/publicdomain/mark/1.0/)³² (if they are in the Public Domain in all jurisdictions or worldwide) or the 'PD-x' mark that is currently being developed by Creative Commons (if a Work is in the Public Domain in at least one jurisdiction). Rightsstatements.org will offer three Rights Statements to be used with digital Items for which the underlying Work is in the Public Domain, but for which there are non-copyright-based restrictions on the use of the digital object:

³² <https://creativecommons.org/publicdomain/mark/1.0/>

6. **Out Of Copyright - Non-Commercial Use Only (OOC-NC)** - indicates that the underlying Work is in the Public Domain, but the organization that has published the Item is contractually required to allow only non-commercial use by third parties.³³
7. **No Copyright - Contractual Restrictions (NoC-CR)** - indicates that the underlying Work is in the Public Domain, but the organization that has published the Item is contractually required to restrict certain forms of use by third parties.
8. **No Copyright - Other Known Legal Restrictions (NoC-OKLR)** - indicates that the underlying Work is in the Public Domain, but that laws other than copyright impose restrictions on the use of the Item by third parties.

Other Rights Statements

Finally, rightsstatements.org provides two Rights Statements for use with Works for which the rights status is undetermined.

9. **No Known Copyright (NKC)** - indicates that the organization that has published the Item believes that no copyright or related rights are known to exist, but that a conclusive determination could not be made.
10. **Copyright Not Evaluated (CNE)** - indicates that the organization that has published the Item has not evaluated the copyright and related rights status of the Item.

³³ This Rights Statement is included in the current list due to legacy requirements of Europeana and may either be removed or rewritten depending on discussions with the Europeana data providers that currently make use of this statement

2. Detailed information per Rights Statement

This section provides more detailed information for each of the proposed Rights Statements. For each Rights Statement, we provide the name, a short summary, the information that will be provided to users when they view the Rights Statement and criteria for selecting this Rights Statement. The information in the tables below is structured as follows:

Short name of RS	Name of Rights Statement (linked to statement text on kl test server)
URL of Rights Statement	
One sentence description of the Rights Statement. This will not be displayed as part of the Rights Statement. Intended for use in documents or on websites describing the Rights Statements.	
Text of the Rights Statement Notices: <ul style="list-style-type: none"> • One or more notices related to the Rights Statement Disclaimer regarding this being a Rights Statement and not a legally operative License summary.	
Generic selection criteria for the Rights Statement. Short text that describes when this Rights Statement should be used, aimed primarily at data providers. This text will not be displayed as parts of the Rights Statement.	
Extra metadata	For some statements it is possible to provide additional metadata that triggers the display of optional information at the text of the Rights Statement (and above the notices). If this is the case this will be noted here. Specific behavior is indicated by keywords in bold as described by RFC2119. ³⁴

³⁴ <https://www.ietf.org/rfc/rfc2119.txt>

2.1 In Copyright

InC	In Copyright
http://rightsstatements.org/vocab/InC/1.0/	
This Rights Statement indicates that the Item labeled with this Rights Statement is in copyright.	
<p>This Item is protected by copyright and/or related rights.</p> <p>You are free to use this Item in any way that is permitted by the copyright and related rights legislation that applies to your use.</p> <p>For other uses you need to obtain permission from the rights-holder(s).</p> <p>Notices:</p> <ul style="list-style-type: none"> • Unless expressly stated otherwise, the organization that has made this Item available makes no warranties about the Item and cannot guarantee the accuracy of this Rights Statement. You are responsible for your own use. • You may need to obtain other permissions for your intended use. For example, other rights such as publicity, privacy or moral rights may limit how you may use the material. • You may find additional information about the copyright status of the Item on the website of the organization that has made the Item available. <p>This statement summarizes some of the terms of the non-standard License or contract that governs re-use of the associated Item. Its purpose is to help the public understand how this Item may be used. It is not a License, and should not be used to license your Work. To license your own Work, use a License offered at http://creativecommons.org/</p> <p>This Rights Statement can be used for an Item that is in copyright. Using this statement implies that the organization making this Item available has determined that the Item is in copyright and either is the rights-holder, has obtained permission from the rights-holder(s) to make the Work available, or makes the Work available under an exception or limitation to copyright (including Fair Use) that entitles it to make the Work available.</p>	
Extra metadata	None

2.2 In Copyright - EU Orphan Work

InC-OW-EU	In Copyright - EU Orphan Work
http://rightsstatements.org/vocab/InC-OW-EU/1.0/	
This Rights Statement indicates that the Item labeled with this Rights Statement has been identified as an 'Orphan Work' under the terms of the EU Orphan Works Directive.	
<p>This Item has been identified as an Orphan Work in the country of first publication and in line with Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of Orphan Works.</p> <p>For this Item, either (a) no rights-holder(s) have been identified or (b) one or more rights-holder(s) have been identified but none have been located even though a diligent search for the rights-holder(s) has been conducted. The results of the diligent search are available in the EU Orphan Works Database.</p> <p>You are free to use this Item in any way that is permitted by the copyright and related rights legislation that applies to your use.</p> <p>[More information about the Work may be found in the following entry in the EU Orphan Works Database: http://example.com/1234567]</p> <p>Notices:</p> <ul style="list-style-type: none"> • Unless expressly stated otherwise, the organization that has made this Item available makes no warranties about the Item and cannot guarantee the accuracy of this Rights Statement. You are responsible for your own use. • You may need to obtain other permissions for your intended use. For example, other rights such as publicity, privacy or moral rights may limit how you may use the material. • You may find additional information about the copyright status of the Item on the website of the organization that has made the Item available. • If you have any information that can contribute to identifying or locating the rights-holder(s), please notify the organization that has made the Item available. <p>This statement summarizes some of the terms of the non-standard License or contract that governs re-use of the associated Item. Its purpose is to help the public understand how this Item may be used. It is not a License, and should not be used to license your Work. To license your own Work, use a License offered at http://creativecommons.org/</p> <p>This Rights Statement is intended for use with Works that have been identified as Orphan Works in accordance with Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of Orphan Works. It can only be applied to Works that are covered by the Directive: Works published in the form of books, journals, newspapers, magazines or other writings as well as cinematographic or audiovisual Works and phonograms (note: this excludes photography and visual arts). It can only be applied by data providers that are beneficiaries of the Directive: publicly accessible libraries, educational establishments and museums, archives, film or audio heritage institutions and public-service broadcasting</p>	

Recommendations for Standardized International Rights Statements

organizations, established in one of the EU member states. The beneficiary is also expected to have registered the Work in the EU Orphan Works Database maintained by OHIM.	
Extra metadata	If a link to the corresponding record in the OW database is provided as additional metadata the text in brackets ('More information about the Work may be found in the following entry in the EU Orphan Works Database: http://example.com/1234567 ') MUST be displayed above the notices. If such a link is not provided the text in brackets MUST NOT be displayed.

2.3 In Copyright - Rights-holder(s) Unlocatable or Unidentifiable

InC-RUU	In Copyright - Rights-holder(s) Unlocatable or Unidentifiable
http://rightsstatements.org/vocab/IC-RUU/1.0/	
This Rights Statement indicates that the Item labeled with this Rights Statement has been identified as in copyright, but its rights-holder(s) either cannot be identified or cannot be located.	
<p>This Item is protected by copyright and/or related rights. However, for this Item, either (a) no rights-holder(s) have been identified or (b) one or more rights-holder(s) have been identified but none have been located.</p> <p>You are free to use this Item in any way that is permitted by the copyright and related rights legislation that applies to your use.</p> <p>Notices:</p> <ul style="list-style-type: none"> • Unless expressly stated otherwise, the organization that has made this Item available makes no warranties about the Item and cannot guarantee the accuracy of this Rights Statement. You are responsible for your own use. • You may need to obtain other permissions for your intended use. For example, other rights such as publicity, privacy or moral rights may limit how you may use the material. • You may find additional information about the copyright status of the Item on the website of the organization that has made the Item available. • If you have any information that can contribute to identifying or locating the rights-holder(s) please notify the organization that has made the Item available. <p>This statement summarizes some of the terms of the non-standard License or contract that governs re-use of the associated Item. Its purpose is to help the public understand how this Item may be used. It is not a License, and should not be used to license your Work. To license your own Work, use a License offered at http://creativecommons.org/</p> <p>This Rights Statement is intended for use with an Item that has been identified as in copyright but for which no rights-holder(s) has been identified or located after some reasonable investigation. This Rights Statement should only be used if the data provider is reasonably sure that the Work is in copyright. This Rights Statement is not intended for use by EU-based data providers who have identified Works as Orphan Works in accordance with the EU Orphan Works Directive (they must use InC-OW-EU instead).</p>	
Extra metadata	none

2.4 In Copyright - Educational Use Permitted

InC-EDU	In Copyright - Educational Use Permitted
http://rightsstatements.org/vocab/InC-EDU/1.0/	
This Rights Statement indicates that the Item labeled with this Rights Statement is in copyright but that educational use is allowed without the need to obtain additional permission.	
<p>This Item is protected by copyright and/or related rights.</p> <p>You are free to use this Item in any way that is permitted by the copyright and related rights legislation that applies to your use. In addition, no permission is required from the rights-holder(s) for educational uses.</p> <p>For other uses, you need to obtain permission from the rights-holder(s).</p> <p>Notices:</p> <ul style="list-style-type: none"> • Unless expressly stated otherwise, the organization that has made this Item available makes no warranties about the Item and cannot guarantee the accuracy of this Rights Statement. You are responsible for your own use. • You may need to obtain other permissions for your intended use. For example, other rights such as publicity, privacy or moral rights may limit how you may use the material. • You may find additional information about the copyright status of the Item on the website of the organization that has made the Item available. <p>This statement summarizes some of the terms of the non-standard License or contract that governs re-use of the associated Item. Its purpose is to help the public understand how this Item may be used. It is not a License, and should not be used to license your Work. To license your own Work, use a License offered at http://creativecommons.org/</p> <p>This Rights Statement can be used only for copyrighted Items for which the organization making the Item available is the rights-holder or has been explicitly authorized by the rights-holder(s) to allow third parties to use the Work for educational purposes without first obtaining permission.</p>	
Extra metadata	None

2.5 In Copyright - Non-Commercial Use Permitted

InC-NC	In Copyright - Non-Commercial Use Permitted
http://rightsstatements.org/vocab/InC-NC/1.0/	
This Rights Statement indicates that the Item labeled with this Rights Statement is in copyright but that non-commercial use is allowed without the need to obtain additional permission.	
<p>This Item is protected by copyright and/or related rights.</p> <p>You are free to use this Item in any way that is permitted by the copyright and related rights legislation that applies to your use. In addition, no permission is required from the rights-holder(s) for non-commercial uses.</p> <p>For other uses you need to obtain permission from the rights-holder(s).</p> <p>Notices:</p> <ul style="list-style-type: none"> • Unless expressly stated otherwise, the organization that has made this Item available makes no warranties about the Item and cannot guarantee the accuracy of this Rights Statement. You are responsible for your own use. • You may need to obtain other permissions for your intended use. For example, other rights such as publicity, privacy, or moral rights may limit how you may use the material. • You may find additional information about the copyright status of the Item on the website of the organization that has made the Item available. <p>This statement summarizes some of the terms of the non-standard License or contract that governs re-use of the associated Item. Its purpose is to help the public understand how this Item may be used. It is not a License, and should not be used to license your Work. To license your own Work, use a License offered at http://creativecommons.org/</p> <p>This Rights Statement can be used only for copyrighted Items for which the organization making the Item available is the rights-holder or has been explicitly authorized by the rights-holder(s) to allow third parties to use the Work for non-commercial purposes without obtaining permission first.</p>	
Extra metadata	None

2.6 Out Of Copyright - Non-Commercial Use Only³⁵

OOC-NC	Out Of Copyright - Non-Commercial Use Only
http://rightsstatements.org/vocab/OOC-NC/1.0/	
This Rights Statement indicates that the Work is in the Public Domain, but the organization that has published the Work is contractually required to allow only non-commercial use by third parties.	
<p>This object has been digitized in a public-private partnership. As part of this partnership, the partners have agreed to limit commercial uses of this digital representation of the object by third parties.</p> <p>You can, without permission, copy, modify, distribute, display or perform the digital object, for non-commercial uses. For any other permissible uses, please review the terms and conditions of the Data Provider.</p> <p>In some jurisdictions, moral rights of the author may persist beyond the term of copyright. These rights may include the right to be identified as the author and the right to object to derogatory treatments. When using this digital object, please respect Europeana's Usage Guidelines for Public Domain Works: http://www.europeana.eu/portal/rights/pd-usage-guide.html</p>	
This Rights Statement can only be used for Works that are in the Public Domain and have been digitized in a public-private partnership as part of which, the partners have agreed to limit commercial uses of this digital representation of the Work by third parties. It has been developed specifically to allow the inclusion of Works that have been digitized as part of the partnerships between European Libraries and Google, but can in theory be applied to Works that have been digitized in similar public-private partnerships.	
Extra metadata	None

³⁵ This Rights Statement is included in the current list due to legacy requirements of Europeana and may either be removed or rewritten depending on discussions with the Europeana data providers that currently make use of this statement

2.7 No Copyright - Contractual Restrictions

NoC-CR	No Copyright - Contractual Restrictions
http://rightsstatements.org/vocab/NoC-CR/1.0/	
This Rights Statement indicates that the underlying Work is in the Public Domain, but the organization that has published the Item is contractually required to restrict certain forms of use by third parties.	
<p>Use of this Item is not restricted by copyright and/or related rights.</p> <p>As part of the acquisition or digitization of this Item, the organization that has made the Item available is contractually required to limit the use of this Item. Limitations may include, but are not limited to, privacy issues, cultural protections, digitization agreements or donor agreements.</p> <p>Please refer to the organization that has made the Item available for more information.</p> <p>[More information about the contractual restrictions can be found here: http://example.com/1234]</p> <p>Notices:</p> <ul style="list-style-type: none"> • Unless expressly stated otherwise, the organization that has made this Item available makes no warranties about the Item and cannot guarantee the accuracy of this Rights Statement. You are responsible for your own use. • You may need to obtain other permissions for your intended use. For example, other rights such as publicity, privacy or moral rights may limit how you may use the material. • You may find additional information about the copyright status of the Item on the website of the organization that has made the Item available. <p>This statement summarizes some of the terms of the non-standard License or contract that governs re-use of the associated Item. Its purpose is to help the public understand how this Item may be used. It is not a License, and should not be used to license your Work. To license your own Work, use a License offered at http://creativecommons.org/</p> <p>This Rights Statement can only be used for Items that are in the Public Domain but for which the data provider has entered into contractual agreement that requires it to take steps to restrict third party uses of the Item. In order for this Rights Statement to be conclusive, the data provider should provide a link to a page detailing the the contractual restrictions that apply to the use of the Item.</p>	
Extra metadata	<p>If a link to a page with more information about the contractual restrictions is provided as additional metadata the text in brackets ('More information about the contractual restrictions can be found here: http://example.com/1234') MUST be displayed above the notices. If such a link is not provided the text in brackets MUST NOT be displayed.</p>

2.8 No Copyright - Other Known Legal Restrictions

NoC-OKLR	No Copyright - Other Known Legal Restrictions
http://rightsstatements.org/vocab/NoC-OKLR/1.0/	
<p>This Rights Statement indicates that the underlying Work is in the Public Domain, but that there are known restrictions imposed by laws other than copyright on the use of the Item by third parties.</p>	
<p>Use of this Item is not restricted by copyright and/or related rights.</p> <p>In one or more jurisdictions, laws other than copyright are known to impose restrictions on the use of this Item.</p> <p>Please refer to the organization that has made the Item available for more information.</p> <p>[More information about the legal restrictions can be found here: http://example.com/1234]</p> <p>Notices:</p> <ul style="list-style-type: none"> • Unless expressly stated otherwise, the organization that has made this Item available makes no warranties about the Item and cannot guarantee the accuracy of this Rights Statement. You are responsible for your own use. • You may need to obtain other permissions for your intended use. For example, other rights such as publicity, privacy or moral rights may limit how you may use the material. • You may find additional information about the copyright status of the Item on the website of the organization that has made the Item available. <p>This statement summarizes some of the terms of the non-standard License or contract that governs re-use of the associated Item. Its purpose is to help the public understand how this Item may be used. It is not a License, and should not be used to license your Work. To license your own Work, use a License offered at http://creativecommons.org/</p>	
<p>This Rights Statement should be used for Items that are in the Public Domain but that cannot be freely re-used as the consequence of known legal restrictions that prevent the data provider from allowing free re-use of the Work, such as cultural heritage or traditional cultural expression protections. In order for this Rights Statement to be conclusive, the data provider should provide a link to a page detailing the legal restrictions that limit re-use of the Item.</p>	
Extra metadata	<p>If a link to a page with more information about the legal restrictions is provided as additional metadata, the text in brackets ('More information about the legal restrictions can be found here: http://example.com/1234') MUST be displayed above the notices. If such a link is not provided the text in brackets MUST NOT be displayed.</p>

2.9 No Known Copyright

NKC	No Known Copyright
http://rightsstatements.org/vocab/NKC/1.0/	
This Rights Statement indicates that the data provider believes that no copyright or related rights are known to exist for the Item, but that a conclusive determination could not be made.	
<p>The organization that has made the Item available reasonably believes that the Item is not restricted by copyright or related rights, but a conclusive determination could not be made.</p> <p>Please refer to the organization that has made the Item available for more information.</p> <p>You are free to use this Item in any way that is permitted by the copyright and related rights legislation that applies to your use.</p> <p>Notices:</p> <ul style="list-style-type: none"> • Unless expressly stated otherwise, the organization that has made this Item available makes no warranties about the Item and cannot guarantee the accuracy of this Rights Statement. You are responsible for your own use. • You may need to obtain other permissions for your intended use. For example, other rights such as publicity, privacy or moral rights may limit how you may use the material. • You may find additional information about the copyright status of the Item on the website of the organization that has made the Item available. <p>This statement summarizes some of the terms of the non-standard License or contract that governs re-use of the associated Item. Its purpose is to help the public understand how this Item may be used. It is not a License, and should not be used to license your Work. To license your own Work, use a License offered at http://creativecommons.org/</p> <p>This Rights Statement should be used for Items for which the copyright status has not been determined conclusively, but for which the data provider has reasonable cause to believe the Work is not covered by copyright or related rights anymore. This Rights Statement should not be used for Orphan Works (which are assumed to be in-copyright) or for Works where the data provider has not undertaken an effort to ascertain the copyright status of the Work.</p>	
extra metadata	none

2.10 Copyright Not Evaluated

CNE	Copyright Not Evaluated
http://rightsstatements.org/vocab/CNE/1.0/	
This Rights Statement indicates that the data provider has not evaluated the copyright and related rights status of the Item.	
<p>The copyright and related rights status of this Item has not been evaluated.</p> <p>Please refer to the organization that has made the Item available for more information.</p> <p>You are free to use this Item in any way that is permitted by the copyright and related rights legislation that applies to your use.</p> <p>Notices:</p> <ul style="list-style-type: none"> • Unless expressly stated otherwise, the organization that has made this Item available makes no warranties about the Item and cannot guarantee the accuracy of this Rights Statement. You are responsible for your own use. • You may need to obtain other permissions for your intended use. For example, other rights such as publicity, privacy or moral rights may limit how you may use the material. • You may find additional information about the copyright status of the Item on the website of the organization that has made the Item available. <p>This statement summarizes some of the terms of the non-standard license or contract that governs re-use of the associated Item. Its purpose is to help the public understand how this Item may be used. It is not a License, and should not be used to license your Work. To license your own Work, use a License offered at http://creativecommons.org/</p>	
This Rights Statement should be used for Items for which the copyright status is unknown and for which the data provider has not undertaken an effort to determine the copyright status of the Work.	
Extra metadata	None

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