

Creative Commons: An Explainer

By Kincaid C. Brown

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- Attribution-NonCommercial (CC BY-NC), permitting users to reuse a work as long as they credit the copyright holder and

the new work is not created for commercial purposes

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The six Creative Commons licenses and the CC0 “no rights reserved” option have three layers: the legal code of the license, a license deed (a summary for nonlawyers), and machine-readable metadata.⁸ The metadata can be embedded in the work itself or in the code for the buttons (standardized icons created by Creative Commons summarizing the license terms for the work) that Creative Commons recommends licensors display with their work.⁹ The previous iterations of the licenses (3.0 and prior) had versions that corresponded to the law in particular countries, but the most recent licenses (version 4.0) were drafted to be enforceable internationally without the need for revision to adhere to specific provisions

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Creative Commons licenses have been enforced by courts in a number of jurisdictions, including the United States, Germany, and Israel.

of any country's copyright law. The improved international enforceability of 4.0 licenses furthers Creative Commons' aim to allow copyright holders to easily share their works globally—almost always via the internet—using standardized terms. Creative Commons licenses have been enforced by courts in a number of jurisdictions, including the United States, Germany, and Israel.¹⁰ The licenses do not apply to trademarks, although there is a possibility for confusion by users; Creative Commons recommends that licensors disclaim the application of the license to trademarks with the work.¹¹

A Creative Commons license can be used as a model license, but once the license is revised, the licensor can no longer indicate that it is a Creative Commons license or use a Creative Commons button or mark.¹² Creative Commons licenses naturally expire with the copyright for a work since the work would then be part of the public domain.¹³ However, for some works, there may be multiple copyrightable parts, so the rights may expire at different times.¹⁴ For example, a movie may have music with a different copyright term from the visual images, meaning the music may still be in copyright and protected by the Creative Commons license after copyright expires for the visual portion.

If users of material protected by a Creative Commons license want to use the content in a way that does not adhere to the license, such as adding digital-rights management to ShareAlike-licensed content, they must first receive express permission from the licensor.¹⁵ Users' rights terminate when they violate the Creative Commons license; however, with version 4.0 licenses, users can automatically reinstate their rights if they correct the violation—for example, not attributing a use to the original copyright holder—within 30 days of discovering the violation.¹⁶ For violations of earlier licensed works or instances in which the

violation is not corrected within 30 days, the licensor has to expressly grant permission for the use; the user cannot download a new copy as a fresh restart.¹⁷ Creative Commons licenses cannot be revoked retroactively.¹⁸ Once a user has downloaded a work, he or she can continue to use that work under the original license terms; a user who downloads the item after the licensor ceased distributing under the Creative Commons license cannot.¹⁹

Using a Creative Commons license

A copyright holder who wants to apply a Creative Commons license to his or her work can do so at any time. A licensor would normally take two steps to release a work under a Creative Commons license, although performing only the second step is enough to adhere the license.²⁰ The first step is embedding the license information in the metadata for the work; many file formats (.jpg, .mp4, .pdf, etc.) allow for embedded metadata. The second step is displaying the license terms along with the work. Using the appropriate Creative Commons button or icon is recommended, but a text statement is also acceptable. In either case, the button or text should link back to the Creative Commons license deed. There is no requirement for a work to be registered with Creative Commons for a Creative Commons license to apply. ■



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ENDNOTES

1. US Copyright Office, *Frequently Asked Questions About Copyright* <<https://www.copyright.gov/help/faq/index.html>>. All websites cited in this article were accessed August 2, 2018.
2. Creative Commons, *Share your work* <<https://creativecommons.org/share-your-work/>>.
3. Creative Commons, *What we do* <<https://creativecommons.org/about/>>.
4. Creative Commons, *CC0* <<https://creativecommons.org/share-your-work/public-domain/cc0/>>.
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8. Creative Commons, *Licensing Considerations* <<https://creativecommons.org/share-your-work/licensing-considerations/>>.
9. Creative Commons, *Downloads* <<https://creativecommons.org/about/downloads>>.
10. Creative Commons, *Case Law* <https://wiki.creativecommons.org/wiki/Case_Law>.
11. Creative Commons, *FAQ: Can I offer material under a CC license that has my trademark on it without also licensing or affecting rights in the trademark?* <<https://creativecommons.org/faq/#can-i-offer-material-under-a-cc-license-that-has-my-trademark-on-it-without-also-licensing-or-affecting-rights-in-the-trademark>>.
12. Creative Commons, *Policies* <<https://creativecommons.org/policies>>.
13. Creative Commons, *FAQ: When do Creative Commons licenses expire?* <<https://creativecommons.org/faq/#when-do-creative-commons-licenses-expire>>.
14. *Id.*
15. Creative Commons, *FAQ: What happens if I want to use the material in a way that is not permitted by the license?* <<https://creativecommons.org/faq/#what-happens-if-i-want-to-use-the-material-in-a-way-that-is-not-permitted-by-the-license>>.
16. Creative Commons, *FAQ: How can I lose my rights under a Creative Commons license? If that happens, how do I get them back?* <<https://creativecommons.org/faq/#how-can-i-lose-my-rights-under-a-creative-commons-license-if-that-happens-how-do-i-get-them-back>>.
17. *Id.*
18. Creative Commons, *FAQ: What happens if the author decides to revoke the CC license to material I am using?* <<https://creativecommons.org/faq/#what-happens-if-the-author-decides-to-revoke-the-cc-license-to-material-i-am-using>>.
19. *Id.*
20. Creative Commons, *FAQ: How do I apply a Creative Commons license to my material?* <<https://creativecommons.org/faq/#how-do-i-apply-a-creative-commons-license-to-my-material>>.