

Licensing of metadata and/or digital objects in Archives Portal Europe

The current document is divided into two major parts:

- The first part covers some [general aspects](#) when deciding which licence and rights statement to use. It is meant to guide you through the process and will point you to suggestions for available licence and rights statements, which will be described in further detail in the second part of this document.
- The second part introduces the [available licences and rights statements](#) in Archives Portal Europe, links to the legal code of the Creative Commons licences and to further details for the [rightsstatement.org](#) statements. Each licence and rights statement is briefly explained in this part, highlighting what applying a specific licence or rights statement will mean for what the users can and cannot do.

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General aspects

The very first decision

Are your metadata/digital objects subject to copyright?

The first question to ask yourself is whether or not your metadata and/or digital objects are subject to copyright. This might be different for metadata and for the digital objects and might also differ for digital objects from one collection to another. For metadata, this might also differ from one country to another and might depend on aspects such as:

- Who creates the metadata?
- In which capacity is the metadata created?
- Who would be the rights holder, if copyright is applicable?

Especially for public institutions where civil servants create the metadata and where the creation of metadata for preservation and access is as one of the functions of their jobs and roles, you might find that such **metadata** is **not** necessarily a **copyrightable** work. In such cases, you might hence want to opt for:

- Applying the [Public Domain Mark](#) (PDM);
- Or - if you would prefer your metadata to only be used in certain contexts - applying the rights statement [No Copyright. Non-Commercial use only](#).

If archival and cultural heritage **metadata** is **subject to copyright** in your country, you might want to consider applying a Creative Commons licence as a standardised licence, which makes it easier for everyone involved to understand what they can or cannot do. There are various options to choose from:

- From **waiving your rights** and dedicating your metadata to the public domain ([CC0](#));
- Via **open licences** such as [CC BY](#) and [CC BY-SA](#);
- To **more restricted licences** which specify that your metadata can only be used in non-commercial contexts ([CC BY-NC](#), [CC BY-NC-SA](#), [CC BY-NC-ND](#)) or only its complete form ([CC BY-ND](#) or [CC BY-NC-ND](#) again)

As an alternative to the Creative Commons licences, you could also consider the use of **rights statements for copyrighted metadata**. This would allow you to:

- Either declare your metadata to be subject to copyright and [only usable in an educational context](#);
- Or you could simply state this as a fact by applying the rights statement [In Copyright](#), which will then require others to get in contact and ask permission every single time when they intend to copy and distribute your metadata.

Last, in case you are not sure (yet) whether archival and cultural heritage metadata is subject to copyright in your country, you could apply the rights statement [Copyright not evaluated](#) for the time being. We would, however, recommend only using this as an interim placeholder and to aim at getting clarification sooner rather than later.

Similar options will apply to digital objects if the circumstances are the same, though there might also be cases, where two other rights statements could apply:

- Either declaring that your digital objects are in the public domain, but indicating that [other legal restrictions](#) might affect the options for use and re-use apart from copyright;
- Or declaring that your digital objects are [orphan works](#), i.e. that either no rights holder(s) could be identified or that one or more rights holder(s) were identified but could not be located despite a diligent search.

If your metadata/digital objects are copyrighted...

...should others be required to attribute you or others as the rights holder?

While citation of one's source could probably be considered being the main code of conduct in the cultural heritage and (digital) humanities domains, you might want to ensure that your metadata/digital objects can be tracked to their source by applying a licence that requires attribution. All six Creative Commons licences include attribution by default:

- [CC BY](#);
- [CC BY-SA](#);
- [CC BY-NC](#);
- [CC BY-NC-SA](#);
- [CC BY-ND](#);
- [CC BY-NC-ND](#).

...should others be required to share your metadata/digital objects under the same terms as you do?

In case you would intend to require users to attribute you or others as the rights holder(s) of your metadata/digital objects or in case you would want to restrict the contexts, in which your metadata/digital objects could be used and reused, you might want to also ensure that any third parties are required to confirm to the same restrictions. There are two Creative Commons licences which specifically require ShareAlike:

- [CC BY-SA](#);
- [CC BY-NC-SA](#).

...should others be able to adapt your metadata/digital objects when publishing them as part of their own works?

Users might want to build on your metadata/digital objects for their own publications. Examples of such activities in the context of APE could be (but are not limited to):

- A user creating and publishing her/his own collection of objects related to their research and hence gathering pieces of metadata and digital objects from various providers and various fonds in order to put them in a new context;
- A user referring to and publishing (parts of) your metadata/digital objects as part of their own research and including translations of your metadata or transcriptions of your text-based digital objects in their own language;
- A user extending your metadata in the context of their own use by e.g. including links to Wikipedia articles or national and international ontologies and vocabularies for Linked Data.

In case you would want to allow for redistribution of your metadata (e.g. in form of a downloadable PDF) and/or your digital objects, but would want to restrict any alterations being made to the works, there are two Creative Commons licences which would enable you to specify this:

- [CC BY-ND](#);
- [CC BY-NC-ND](#).

...should others only be allowed to use your metadata in specific contexts?

In case you are generally agreed with users using and reusing your metadata and/or digital objects, you might still want to be able to focus on specific areas and domains in which your metadata and/or digital objects could be used and reused. There are three Creative Commons licences which would enable you to restrict usage to non-commercial contexts only:

- [CC BY-NC](#);
- [CC BY-NC-SA](#);
- [CC BY-NC-ND](#).

Furthermore, there are two rights statements - one for copyrighted works, one for non-copyrighted works - that would allow you to follow a similar approach:

- [InC-EDU](#) for metadata and/or digital objects that are subject to copyright, but should only be used in educational contexts;
- [NoC-NC](#) for metadata and/or digital objects that are **not** subject to copyright, but should only be used in non-commercial contexts.

Other general aspects

Licence vs rights statement

Creative Commons provides an actual **licence**, i.e. it is legally operative, while the rightsstatement.org statements only summarise the effects and terms of potentially existing (non-standard) licences or contracts that govern use and reuse of your metadata and/or digital objects. These statements are not meant to provide a legally operative licence, but rather represent a **framework** to help the public understand how your metadata and/or digital objects may be used.

Furthermore it should be noted that a Creative Commons licence can **only** be used **by the rights holder(s) or with their explicit permission** and can **only** be applied to metadata and/or digital objects that are **subject to copyright**. They also **cannot be revoked**, i.e. once applied, anyone may rely on the licence for as long as the work is protected by copyright. This stands, even if the rights holder stops distributing the work at a later point.

Changing your mind

As mentioned above, Creative Commons licences cannot be revoked. E.g. if you have chosen APE's base licence for metadata, CC BY-SA, the only possible changes would be to apply a more open licence (i.e. applying CC BY and skipping the requirement to ShareAlike), to waive all rights (i.e. applying CC0) or the work becoming part of the public domain (i.e. applying the Public Domain Mark).

The rightsstatement.org statements as not being legally operative licences might provide some more flexibility in terms of changing the status of your metadata later on. However, for clarity and consistency, we would recommend avoiding any case or scenario that would require a change.

Available licences and rights statements in Archives Portal Europe

Archives Portal Europe's base licence - CC BY-SA (for copyrighted works)

CC BY-SA (<https://creativecommons.org/licenses/by-sa/4.0/>) - or Creative Commons Attribution-ShareAlike - is the base licence used in APE for all metadata provided by our partners as well as all content created either by the staff of the Archives Portal Europe Foundation (APEF) or end-users. This licence applies as long as no alternative licence is chosen via the tools provided by APEF.

In case you have agreed to apply this base licence, you allow APEF and other users to remix, tweak and build upon your metadata, even for commercial purposes, as long as they attribute you as the rights holder and licence their adaptations under the same terms. All new variations based on your original metadata will carry the same licence, so any derivatives will also allow commercial use.

The same would apply to digital objects published under the CC BY-SA licence.

Metadata made available under the terms of CC BY-SA, as one of the open Creative Commons licences, will be published via the website as well as via the API of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

Other open Creative Commons licences (for copyrighted works)

CC0

In case your metadata and/or digital objects are subject to copyright and you are the sole rights holder - or have obtained approval from any other rights holders, you can decide to waive all your rights by applying CC0 (<https://creativecommons.org/publicdomain/zero/1.0/>) - or Creative Commons Public Domain Dedication.

This means that your metadata and/or digital objects will be free to be used by anyone without any restriction or requirements.

For metadata, even when made available under the terms of CC0, APE will include its Metadata Usage Guidelines that - among other aspects - ask users to give attribution, to mention their modifications and to share their modifications under the same terms. While this is not legally binding, it is expected to raise awareness of these aspects as a generally appreciated code of conduct.

Metadata made available under the terms of CC0, as one of the open Creative Commons licences, will be published via the website as well as via the API of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

CC BY

CC BY (<https://creativecommons.org/licenses/by/4.0/>) - or Creative Commons Attribution - allows APEF and other users to remix, tweak and build upon your metadata and/or digital objects, even for commercial purposes, as long as they attribute you or other rights holder.

For metadata, APE will ask users to mention their modifications and to share their modifications under the same terms by publishing the Archives Portal Europe Metadata Usage Guidelines along with your metadata. While this is not legally binding, it is expected to raise awareness of these aspects as a generally appreciated code of conduct.

Metadata made available under the terms of CC BY, as one of the open Creative Commons licences, will be published via the website as well as via the API of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

Other more restrictive Creative Commons licences (for copyrighted works)

CC BY-ND

CC BY-ND (<https://creativecommons.org/licenses/by-nd/4.0/>) - or Creative Commons Attribution, No Derivatives - allows APEF and other users to redistribute your metadata and/or digital objects, including commercial and non-commercial usage, as long as no alteration is made to the metadata and you or others are attributed as the rights holder.

While APE will publish the Archives Portal Europe Metadata Usage Guidelines along with your metadata, these guidelines do not necessarily add any additional asks to what the licence already specifies.

Metadata made available under the terms of CC BY-ND, as one of the more restrictive Creative Commons licences, will only be published via the website of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

CC BY-NC

CC BY-NC (<https://creativecommons.org/licenses/by-nc/4.0/>) - or Creative Commons Attribution, Non-Commercial - allows APEF and other users to remix, tweak and build upon your metadata and/or digital objects for non-commercial purposes only and for as long as they attribute you or others as the rights holder.

For metadata, APE will furthermore ask users to mention their modifications and to share their modifications under the same terms by publishing the Archives Portal Europe Metadata Usage Guidelines along with your metadata. While this is not legally binding, it is expected to raise awareness of these aspects as a generally appreciated code of conduct.

Metadata made available under the terms of CC BY-ND, as one of the more restrictive Creative Commons licences, will only be published via the website of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

CC BY-NC-SA

CC BY-NC-SA (<https://creativecommons.org/licenses/by-nc-sa/3.0/>) - or Creative Commons Attribution, Non-Commercial, ShareAlike - allows APEF and other users to remix, tweak and build upon your metadata and/or digital objects for non-commercial purposes only, as long as they attribute you or others as the rights holder and licence their adaptations under the same terms. All new variations based on your original metadata and/or digital objects will carry the same licence, so any derivatives will also only allow non-commercial use.

While APE will publish the Archives Portal Europe Metadata Usage Guidelines along with your metadata, these guidelines do not necessarily add any additional asks to what the licence already specifies.

Metadata made available under the terms of CC BY-NC-SA, as one of the more restrictive Creative Commons licences, will only be published via the website of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

CC BY-NC-ND

CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/4.0>) - or Creative Commons Attribution, Non-Commercial, No Derivatives - allows APEF and other users to redistribute your metadata and/or digital objects only for non-commercial purposes and as for long as no alteration is made to them and you or others are attributed as the rights holder.

While APE will publish the Archives Portal Europe Metadata Usage Guidelines along with your metadata, these guidelines do not necessarily add any additional asks to what the licence already specifies.

Metadata made available under the terms of CC BY-NC-ND, as one of the more restrictive Creative Commons licences, will only be published via the website of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

Rights statements (for copyrighted works)

InC

With the InC statement (<http://rightsstatements.org/vocab/InC/1.0/>) - or "In Copyright" statement - you make your metadata and/or digital objects freely available online via the website of APE, but any kind of reuse requires additional permission from you or other rights holder(s).

While APE will publish the Archives Portal Europe Metadata Usage Guidelines along with your metadata, these guidelines do not necessarily add any additional asks to what the rights statement already specifies.

Metadata made available under the terms of InC will only be published via the website of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

InC-EDU

With the InC-EDU statement (<http://rightsstatements.org/vocab/InC-EDU/1.0/>) - or "In Copyright, Educational use permitted" statement - you make your metadata and/or digital objects freely available online via the website of APE for educational purposes only. This includes the possibility for APEF and other users to remix, tweak and build upon your metadata in these contexts. Any other kind of reuse, however, requires additional permission from you or others as the rights holder.

For metadata, APE will furthermore ask users to give attribution, to mention their modifications and to share their modifications under the same terms by publishing the Archives Portal Europe Metadata Usage Guidelines along with your metadata. While this is not legally binding, it is expected to raise awareness of these aspects as a generally appreciated code of conduct.

Metadata made available under the terms of InC-EDU will only be published via the website of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

InC-OW-EU

The InC-OW-EU statement (<http://rightsstatements.org/vocab/InC-OW-EU/1.0/>) - or "In Copyright, EU Orphan Work" statement - only can be applied to digital objects in the context of Archives Portal Europe, not to metadata. With this statement, you indicate that the digital objects have been identified as orphan works 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, i.e. 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 to be made available in the [EU Orphan Works Database](#).

As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

Public Domain Mark (for works out of copyright)

The PDM (<https://creativecommons.org/publicdomain/mark/1.0/>) - or Public Domain Mark - provides a label that confirms that your metadata and/or digital objects are no longer or have never been protected by copyright. Metadata and/or digital objects labelled as being in the public domain can be used by anyone without any restrictions or requirements.

For metadata, even when labelled with the PDM, APE will include its Metadata Usage Guidelines that - among other aspects - ask users to give attribution, to mention their modifications and to share their modifications under the same terms. While this is not legally binding, it is expected to raise awareness of these aspects as a generally appreciated code of conduct.

Metadata made available with the PDM as a label will be published via the website as well as via the API of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

Rights statement (for non-copyrighted works)

NoC-NC

With the NoC-NC statement (<http://rightsstatements.org/vocab/NoC-NC/1.0/>) - or “No Copyright, Non-commercial use only” statement - you make your metadata and/or digital objects freely available online via the website of APE for non-commercial purposes only. This includes the possibility for APEF and other users to remix, tweak and build upon your metadata in these contexts.

You might want to consider using this rights statement in cases when e.g. your metadata and/or digital objects have been created in the context of a public-private partnership, where the terms of the contractual agreement limit commercial use for a certain period of time. In such scenarios, it would be recommended to provide the first year when your metadata and/or digital objects can be used by third parties without restrictions on commercial use.

For metadata, APE will furthermore ask users to give attribution, to mention their modifications and to share their modifications under the same terms by publishing the Archives Portal Europe Metadata Usage Guidelines along with your metadata. While this is not legally binding, it is expected to raise awareness of these aspects as a generally appreciated code of conduct.

Metadata made available under the terms of NoC-NC will only be published via the website of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

NoC-OKLR

The NoC-OKLR statement (<http://rightsstatements.org/vocab/NoC-OKLR/1.0/>) - or “No Copyright, Other known legal restrictions” statement - only can be applied to digital objects in the context of Archives Portal Europe, not to metadata. With this statement, you make your digital objects freely available online via the website of APE as being in the public domain, while indicating that in one or more jurisdictions, laws other than copyright are known to impose restrictions on their use. The user is hence recommended to refer to the institution making the digital objects available for more information.

When using this rights statement, it would be recommended to also provide information about the law, (non-standard) licence or contract that governs re-use of the associated item.

As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.

Rights statement (for works with unclear status)

CNE

The CNE statement (<http://rightsstatements.org/vocab/CNE/1.0/>) - or “Copyright not evaluated” statement - could be used when you are not (yet) in a position to apply a specific licence or rights statement to your metadata and/or digital objects. Before applying this rights statement, we highly recommend getting in touch with the APEF team (info@archivesportaleurope.net) to clarify your situation and to establish a back-up plan for future additions and changes to your metadata and/or digital objects with regard to the licence and rights status.

Should you decide to publish your metadata in APE with the CNE statement, APE will ask users to give attribution, to mention their modifications and to share their modifications under the same terms by publishing the Archives Portal Europe Metadata Usage Guidelines along with your metadata. While this is not legally binding, it is expected to raise awareness of these aspects as a generally appreciated code of conduct.

Metadata made available under the terms of CNE will only be published via the website of APE. As digital objects are only represented in APE as links to the providing institution's own website, these will be published only via the website of APE independent of the licence being applied.