



OPEN SCIENCE FACTSHEET NO. 6

based on the 61st online seminar:

Open Access Publishing – Zooming in on Copyright and CC Licenses ([Slides](#))

BASICS OF GERMAN COPYRIGHT

- **Granting of rights of use:** If an author wishes to allow a third party to use their copyright protected work, e.g., for publication, this requires a transfer of rights of use. The transfer can be tailored as required (see table). The most important aspect is the decision whether rights of use are to be transferred exclusively or non-exclusively:

| non-exclusive | exclusive |
|--|---------------------------------|
| permanent, irrevocable | temporarily |
| geographically limited | unlimited |
| limited content wise | VS. unlimited |
| giving consent to sub-license | refusing consent to sub-license |
| giving consent to use/ publication of adaptation or other transformation | refusing consent |

Tab. 1: Transfer of rights of use.

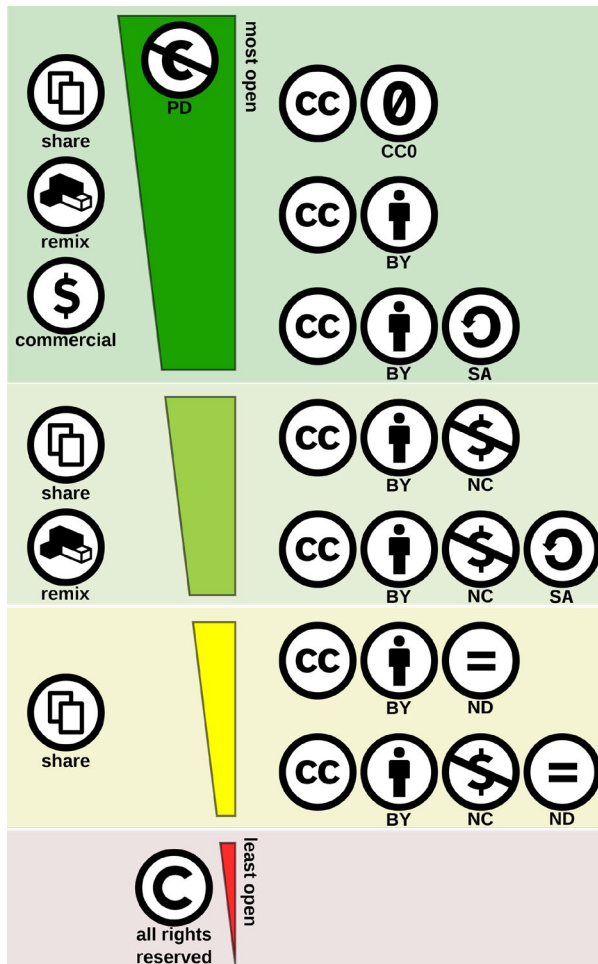
- In Germany, copyright protection is granted automatically to authors for all works that qualify as personal creations.
- In science, copyright protected works are often produced by several cooperating authors. In this case, this group exercises their rights collectively.
- From a legal perspective, the **transfer of a right of use** is always considered a conclusion of a contract. Preferably, authors should transfer rights of use in writing to avoid ambiguities. The use of a **Creative Commons License** is recommended.

OUR SPEAKER DR. CHRISTOPH BRUCH

- Open Science Officer at Helmholtz Open Science Office
- [Web](#) | [Mail](#) | [Newsletter](#) | [Twitter](#)



CREATIVE COMMONS LICENSES



- CC licenses are recommended for authors who want to **make their work available to the public** while preserving their copyright.
- **Condition:** the authors who wish to grant the license have not previously transferred their rights of use exclusively.
- **Recommendation:** Usage of the **latest version** of the CC licenses
 - ▶ currently: [CC Licenses 4.0](#).
- [Creative Commons Frequently Asked Questions \(German version\)](#)
- For further information on Open Access Publishing in general, please refer to:
 - Open Science Factsheet No. 1: Open Access Publishing for Early Career Researchers at Helmholtz.
 - <https://doi.org/10.2312/os.helmholtz.013>

QUESTIONS AND ANSWERS

Why are CC BY-NC 4.0 and CC BY-ND 4.0 not recommended for Open Access (OA) publications?

- [CC BY 4.0](#) is recommended for OA publications; CC BY-NC & CC BY-ND are too restrictive to allow for genuine OA:
 - [CC BY-ND 4.0](#) – Attribution-NoDerivatives 4.0 International: “no derivatives” entails strong restrictions for reuse, e.g., that content may not be adapted to new contexts.
 - [CC BY-NC 4.0](#) – Attribution-NonCommercial 4.0 International: “non commercial” prohibits all commercial reuses, also those not for profit or in charitable cross-financing as e.g., employed by Wikipedia or community colleges.
- Further information: [Open Content – A Practical Guide to Using Creative Commons](#)



QUESTIONS AND ANSWERS

What to do when faced with inconsistencies between the license information on a publisher's landing page and the full text (PDF) (e.g., landing page shows [CC BY 4.0](#) but full text “all rights reserved”)?

- According to the maxim that “ignorance does not protect from punishment”, the mistaken use of a work under a CC license that has not been granted by the actual holder of rights is not permitted.
- As a rule of thumb: In case of a discrepancy, one should refer to the information in the actual document in question or contact the publisher for clarification.

When publishing a cumulative dissertation consisting of articles published under different licenses, which license may be used for the overall dissertation?

- The individual articles of a cumulative dissertation may carry different licenses; this does not interfere with the copyright of all works within the collection.
- Publishers can be asked to allow for an open license for all entailed articles; this often is successful. Sometimes, a case-by-case examination might be necessary.

Can CC Licenses also be used to make Open Research Data and Open Research Software available?

- Open Research Data, as recommended by [Brettschneider et al. \(2021\)](#), can be made available with a CC license; however, specific licenses for data sharing might be also suitable: among others, [Open Data Commons \(ODC\)](#), [Community Data License Agreement \(CDLA\)](#), or [Open Government Licence](#).
- **Open Research Software** should rather be made available with a specific software license: [Creative Commons advises](#) “to use one of the very good software licenses which are already available [...] [such as] licenses [listed as free](#) by the [Free Software Foundation](#) and [listed as ‘open source’](#) by the [Open Source Initiative](#).”

Who to contact with questions on how to license Open Access publications?

- Please contact the respective library of your Center or institution (for Helmholtz, also see: [Open Science stakeholders and their functions](#)).
- Open Access questions can also be directed to the [open-access.network helpdesk](#).