

Information on Open Access, Copyrights, and Licenses

What is meant by “Open Access”?

For scientific and scholarly literature, the Budapest Open Access Initiative (BOAI) defines Open Access as follows: “By ‘open access’ to this literature, we mean its free availability on the public internet, permitting any users to read, download, copy, distribute, print, search, or link to the full texts of these articles, crawl them for indexing, pass them as data to software, or use them for any other lawful purpose, without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself. The only constraint on reproduction and distribution, and the only role for copyright in this domain, should be to give authors control over the integrity of their work and the right to be properly acknowledged and cited.” ([Budapest Open Access Initiative](#))

What secondary publication rights are allowed under the Copyright Law?

Authors of unpaid academic contributions published in a collection of texts (journals, edited volumes) may reproduce, distribute, and make publicly available their work after an embargo period of 12 months, as long as the text was first published after January 1, 1995, and unless stipulations were otherwise agreed with the publisher or other third parties. According to Section 38 (1) and (2) of the German Copyright Law, in cases of doubt, the publisher of a contribution to a collection (journal or collected volume) acquires an exclusive right of reproduction and distribution, but the publisher's exclusive right of use ends upon expiry of 12 months after first publication. Authors are then free to apply, for example, a Creative Commons license to their work and republish it (secondary publication) in a repository or any other publication venue.

Copyright with regard to monographs is more restrictive. Monographs can only be republished in a repository such as *GenderOpen* or any other publication venue if prior permission is obtained from the publisher or other third parties who hold the rights to the work. We therefore ask you to check your contract and/or to contact the publisher or the third parties who hold the rights to the work. If you have relinquished all rights of use to a publisher or other third parties, then you will have to obtain the rights holders' written permission, including explicit reference to the type of license that you would like to apply to your work and the license granted by the publisher.

What are licenses?

“Progress in science and scholarship can only be achieved if scholars are able to build on earlier research results and apply them. However, scientific work is often complicated by a lack of clarity on whether, how, or under what terms the documents, illustrations, graphics,

tables, data, and software of other authors may be reused for teaching and research work. Licenses that are granted by the author or the rights holder . . . are one way out of this dilemma.” This is because “licenses stipulate what users are allowed to do with copyrighted works without having to ask the author for permission in each specific case.” (*Excerpt translated from: German Research Foundation (DFG), Information für die Wissenschaft No. 68 | November 20, 2014, “Appell zur Nutzung offener Lizenzen in der Wissenschaft”*)

What are Creative Commons licenses?

CC licenses allow holders of copyrighted material to grant usage rights to anyone interested in using the work. Usage rights range from simple sharing to translation, use as teaching material, and textual modifications. Six different CC license types have become established, specifying the terms of use in different ways. They are composed of four basic modules:

Abbreviation	Module	Definition
by	Attribution	The author must be credited as the originator.
nc	Noncommercial	The work may not be used for commercial purposes.
nd	No derivatives	The work may not be modified.
sa	Share alike	The work, modified or not, must be distributed under the same license as the original.

More information about the different types of CC licenses can be found here: https://en.wikipedia.org/wiki/Creative_Commons_license (last accessed July 11, 2017). The *GenderOpen* project group recommends applying the Creative Commons license CC BY, version 4.0, to the material provided for publication on our server. The text of **CC BY 4.0** can be found here: <https://creativecommons.org/licenses/by/4.0/legalcode> (last accessed July 11, 2017).

Why do we recommend the Creative Commons license CC BY 4.0?

We recommend the Creative Commons license CC BY 4.0 because it is considered to be the most suitable form of licensing for educational and research contexts. Its advantage is that contributions with this license can be distributed, reproduced, modified, or used in any way as long as the authors are mentioned as originators. In this way, the CC BY license helps achieve greater visibility for academic publications and their authors. Numerous institutions that fund research—the Austrian Science Fund FWF, for instance, or (in certain cases) the European Commission—even require that research results obtained with their financial support be published under a CC BY license. It is therefore no coincidence that the CC BY license is the most common license form used for academic publications ([Schmeja 2017](#)).

If you would like to publish your text(s) on *GenderOpen* as an author or rights holder, please find [the English version of the agreement for electronic publication on GenderOpen as pdf](#) here.

Why do we not recommend the additional CC license element NC?

Adding the CC license element NC to a Creative Commons license prohibits commercial use. This initially sounds good to authors, and is a popular choice. However, the NC module can be problematic in many respects, as it excludes types of use which actually may be in the interest of the author. For instance, it prohibits sharing the material in newspapers, archives, and open knowledge banks such as Wikipedia. In addition, educational and training institutions that are not exclusively publicly funded are not necessarily permitted to use material with a NC license.

A further disadvantage of the NC module is that in many cases it is not exactly clear what counts as commercial use. Many blogs display advertising to generate revenue in order to cover their server costs. Should these blogs then be classified as commercially driven? NC licensing terms remain rather vague on this point, so that interested parties may as a precaution decide not to use the NC-licensed material (Klimpel 2012).

The SA (Share Alike) module is an useful alternative for authors who want to prevent others from making money with their content, as it requires “sharing under the same (license) conditions.” The same licensing terms must be applied to modified material as to the original work. In other words, if companies create materials using SA-licensed content, they must make those materials freely available under Share Alike conditions. Very few companies want to take that step, and as a result it is rare for unwanted commercial usages to occur. At the same time, a Share Alike license allows educational institutions that are not, or not fully, publicly funded to use the materials.

Why do we not unreservedly recommend the additional CC license element ND?

The CC license element ND (No Derivatives) prohibits the distribution of content that has been modified in any way, such as translations or excerpts. That makes the ND module particularly restrictive for the domain of education and research. For example, if an edited volume is given a CC BY ND license and made accessible on the internet, only the volume as a whole can be used, not selected texts. In some cases it makes sense to redistribute articles in a modified form, for example as a long excerpt—but this is not possible if you apply the restrictive ND (Graf 2014).

Do I have to obtain the rights for images that are contained in a text?

Images and illustrations such as photos, graphics, and diagrams are defined as works under the Copyright Law, and they are protected by copyright even if they are available free on the internet. They can be made accessible free of cost without prior permission if they are in the public domain or have been CC licensed. If that is not the case, permission (possibly for a fee) is needed before they can be made publicly accessible—a simple non-exclusive right of use for the image material must be obtained from the rights holder. An alternative to obtaining this permission would be to black out the images in the text. It is important to remember, however, that blacking out an image cannot be reversed.

How do I obtain image rights?

In order to obtain the simple, non-exclusive right to use an image, you first need to find out who owns the rights to the image. This will usually be indicated in the legal notice of a website, in the image index of a book containing the image, or in the terms of use given in an image database. A request can then be made to the rights holder by mail or email. Include the exact details of the image concerned, the bibliographical data of the text in which it was published or will be published, and details of the intended new publication (public access through *GenderOpen*, a repository for gender research; indicate the desired CC license if relevant). The rights holder should also be informed whether, and how, the image will be or has been modified.

If you would like to publish your text(s) on *GenderOpen* as an author or rights holder, please find [the English version of the agreement for electronic publication on *GenderOpen* as pdf](#) here.

Please note that these notes are intended for preliminary guidance purposes only. Although the information on these pages has been carefully checked by the GenderOpen team, it does not constitute legal advice.