



Selecting an Alternative Label or Licence

How to identify and assigning the copyright status to digital collections when CC0 cannot be used

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About the GLAM-E Lab

The GLAM-E Lab is a joint initiative between the Centre for Science, Culture and the Law at the University of Exeter and the Engelberg Center on Innovation Law & Policy at NYU Law to work with smaller and less well-resourced UK and US cultural institutions and community organisations to build open access capacity and expertise.

The GLAM-E Lab provides legal counsel to GLAM institutions and cultural organisations as they develop open access programs. The solutions created for those institutions are then integrated into model internal policies and external terms of service that can be adopted by others. The goal of this approach is to use lessons learned from directly representing individual institutions to create self-serve model policies that work “off the shelf” for as many organisations as possible. We supplement these model policies with additional guides and resources to address common challenges.

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About the GLAM-E Lab Open GLAM Toolkit

This handbook is part of the GLAM-E Lab Open GLAM Toolkit for cultural heritage organisations. The toolkit includes:

- [Onboarding Document](#), to introduce you to the GLAM-E Lab method of building an open access programme. It will give you a clearer picture of what open means in practice for you, your institution, your collections, and your community.
- [Internal Open Access Policies](#) will help you identify works in your collection that may be good candidates for your open access programme.
- [Assessing and Mitigating Risk](#), an overview of how to set and apply risk tolerances and takedown procedures for your images and data.
- [Copyright Clearance Handbook for Public Domain Publication of Digital Collections](#) and [Copyright Clearance Log](#), which guides you through the process of clearing copyright with the goal of assigning the [CC0 1.0 Universal Public Domain Dedication](#) when it is appropriate and lawful to do so. Once you have cleared copyright, you can then add the creator or work to the Copyright Clearance Log to document that process.
- [Image and Metadata Handbook for Wikimedia Commons](#) and [Sandbox Template for Wikimedia Commons Metadata Management](#), which guides you through the process of organising your images and metadata for upload to Wikimedia Commons.
- [Selecting an Alternative License or Label](#) addresses which machine readable statements to use when CC0 cannot be applied.
- [External Open Access Policies](#), which contains a model open access policy you can modify and use on your website or other communications.
- [Glossary](#), a list of terms used in this handbook and other GLAM-E Lab resources.

Together, these materials will help you identify, prepare, and publish your digital collections for open access using public domain statements or other machine readable statements.

Before using this handbook, you will likely benefit from reading the [Onboarding Document](#) and [Assessing and Mitigating Risk](#). These resources will help you to understand open access and how to clear copyright in digital collections.

This toolkit is not intended to be legal advice. You should always contact a qualified professional for legal support.

Selecting an Alternative Licence or Label

In most cases, you will be applying a CC0 public domain dedication to the objects that you digitise as part of your open access programme (see [Go Open with GLAM-E](#) and [Copyright Clearance Handbook for Public Domain Publication of Digital Collections](#)). However, if you are unable to apply CC0, other machine readable labels and licences are available for your digital collections.

There are two standardised sets of machine readable statements commonly used for cultural heritage materials.

- **Creative Commons licences and tools.** [Creative Commons](#) (CC) provides six licences and two tools for marking creative content that offer certain usage rights to the public, while reserving others. CC licences can only be applied by the rightsholder. Two CC licences qualify as “open” under international open access statements and definitions, [CC BY](#) and [CC BY-SA](#), because they permit commercial use and modification. The remaining CC licences are “closed” ([CC BY-ND](#), [CC BY-NC](#), [CC BY-NC-SA](#), [CC BY-NC-ND](#)). Creative Commons also provides two tools for marking materials as public domain ([CC0](#) and the [Public Domain Mark](#)), as discussed below. All licences and tools are available in more than 40 languages.
- **RightsStatements.org labels.** [RightsStatements.org](#) provides 12 labels that describe the copyright status of a work, even in instances where that status is unknown. These are usually applied to describe the status of a work when the organisation does not own any rights in the item. RightsStatements.org labels are intended for use when Creative Commons licences are either not appropriate or cannot be applied.¹ The labels are organised across three categories: [In Copyright](#), [No Copyright](#), and [Other](#).




In addition, **Local Contexts** provides a set of Traditional Knowledge and Biocultural Labels and Notices for Indigenous communities and cultural organisations to clarify community-specific rules or expectations around access or use that go beyond the scope of intellectual property rights. Learn more about how or when the use of Labels and Notices are appropriate on the [Local Contexts website](#).

¹ For additional support on using RightsStatements.org labels, the Society of American Archivists has produced a [Guide to Implementing Rights Statements from RightsStatements.org](#).

A refresher on statements for public domain materials

Statements used to describe public domain status indicate that **materials are unprotected by copyright and related rights and can be freely used without permission or restriction**. It is best practice to use a standardised machine readable statement instead of a descriptive free text statement, like “public domain,” because standardised machine readable statements ensure that any materials offered under their terms are easy to search for, discover, and use.

Both Creative Commons and RightsStatements.org provide machine readable statements for **public domain materials**. These include:

	CC0 1.0 Universal Public Domain Dedication (CC0) . CC0 is a legal tool used to dedicate materials to the public domain. (Legal Code)
	Public Domain Mark 1.0 Universal (PDM) . PDM is a legal tool used to identify materials that are free of known restrictions under copyright law, including related and neighbouring rights. (Legal Code)
	No Copyright - United States (NoC-US) . NoC-US should be used for items that are free of copyright under the United States.

When to use Creative Commons licences

You can use CC licences in two main scenarios.

Scenario 1: (1) Copyright subsists in the materials; (2) **your organisation owns the copyright**; and (3) your organisation wishes to retain copyright while releasing certain usage rights to the public. Which CC licence you apply to materials will depend on your organisation’s open access policy or other obligations (e.g., funder obligations).

Scenario 2: (1) Copyright subsists in the materials; (2) **a third party owns the copyright**; and (3) the third party consents to application of a CC License and selects which usage rights to release to the public. The rightsholder can also choose to apply CC0 and dedicate the work to the public domain.



You should keep in mind the following:

- **CC licences cannot be applied to faithful reproductions of public domain works.** This is because a copyright-based licence cannot be applied to any materials that are not protected by copyright law.
- **CC licences are irrevocable.** This means you cannot withdraw a licence once it has been applied. Even so, you can: update to a more permissive licence, such as moving from CC BY-NC to CC BY.

- **CC licences are global.** The version 4.0 CC licence suite is more user-friendly and internationally robust than previous versions.²
- **CC licences are legally robust.** Every licence has a summary of terms (*i.e.*, the deed), as well as a more extensive version (*i.e.*, the legal code). The legal code contains the full set of terms and obligations that apply to use of materials marked with CC licences and tools.



CC open licences

Open licences permit use of in-copyright materials for any purpose, including commercial use and modification. Materials marked with open licences can be freely accessed, used, modified, and shared, subject at most to conditions that preserve provenance and openness.

	<p>CC BY (Attribution) permits sharing and adapting the material for any purpose, even commercially, so long as users attribute the rightsholder (Legal Code)</p>
	<p>CC BY-SA (Attribution-ShareAlike) permits sharing and adapting the content for any purpose, even commercially, so long as users attribute the rightsholder and distribute the materials under the same licence (Legal Code)</p>

CC closed licences

Closed licences prohibit use of in-copyright materials for commercial use and modification. Materials marked with closed licences do not qualify as “open” under international standards and definitions of open.

	<p>CC BY-ND (Attribution-NoDerivatives) permits sharing the material for any purpose, even commercially, so long as users attribute the rightsholder and do not remix, transform, or build upon the material (Legal Code)</p>
	<p>CC BY-NC (Attribution-NonCommercial) permits sharing and adapting the material, so long as users attribute the rightsholder and do not use the material for commercial purposes (Legal Code)</p>
	<p>CC BY-NC-SA (Attribution-NonCommercial-ShareAlike) permits sharing and adapting the material, so long as users attribute the rightsholder, do not use the material for commercial purposes, and distribute the material under the same licence (Legal Code)</p>
	<p>CC BY-NC-ND (Attribution-NonCommercial-NoDerivatives) permits sharing the material, so long as users attribute the rightsholder and do not use the material for commercial purposes or remix, transform, or build upon the material (Legal Code)</p>

² For more information, see Creative Commons, “What’s New in 4.0,” <https://creativecommons.org/version4/>.






When to use RightsStatements.org labels

RightsStatements.org labels are designed for use by cultural institutions to describe the rights status of works in the collection. RightsStatements.org labels can be used to mark works that are:

- **In Copyright**, including orphan works or works with unlocatable rightsholders
- **No Copyright** but subject to restrictions that prohibit the application of CC0 or the Public Domain Mark
- **Other**, such as if copyright has not yet been evaluated or is undetermined





In Copyright

The following five statements can be used for in copyright items:

 IN COPYRIGHT	In Copyright. When your organisation has determined the item is in copyright and either is the rightsholder, has obtained permission from the rightsholder(s) to make the item available, or makes the item available under an exception or limitation to copyright law. (URI)
 EU ORPHAN WORK	In Copyright – EU Orphan Work. When your organisation has identified the item as an orphan work and registered it in the EU Orphan Works Database maintained by the EUIPO. (URI)
 EDUCATIONAL USE PERMITTED	In Copyright – Educational Use Permitted. When the copyright holder (<i>i.e.</i> , your organisation or third party) has given permission for anyone to use the item for educational purposes. (URI)
 NON-COMMERCIAL USE PERMITTED	In Copyright – Non-Commercial Use Permitted. When the copyright holder (<i>i.e.</i> , your organisation or third party) has given permission for anyone to use the item for non-commercial purposes. (URI)
 UNKNOWN RIGHTSHOLDER	In Copyright – Rights-Holder(s) Unlocatable or Unidentifiable. When the item is in copyright but no rightsholder has been identified or located after a reasonable investigation. (URI)




No Copyright

When the item is not protected by copyright but other restrictions prevent reuse or the no-copyright status is specific to a single jurisdiction, the following four statements can be used:

 CONTRACTUAL RESTRICTIONS	No Copyright – Contractual Restrictions. When the item is in the public domain, your organisation has entered into a contractual agreement that requires it to take steps to restrict third party uses. Please note that you should provide a link to a page detailing what contractual restrictions apply. (URI)
 NON-COMMERCIAL USE ONLY	No Copyright – Non-Commercial Use Only. When the item is in the public domain, but has been digitised in a public-private partnership that limits commercial use of the digital surrogate by third parties. While designed for items digitised by partnerships between European Libraries and Google, the label can be applied to items digitised in similar public-private partnerships. (URI)
 OTHER LEGAL RESTRICTIONS	No Copyright – Other Known Legal Restrictions. When the item is in the public domain, but cannot be freely reused due to known legal restrictions that prevent your organisation from allowing free reuse, such as a cultural heritage code or Indigenous rights. Please note that you should provide a link to a page detailing what legal restrictions apply. (URI)
 IN THE UNITED STATES	No Copyright – United States. This label is specifically designed for use on items that are free of copyright under the laws of the United States. (URI)

Other

As a last resort, the following three statements can be used when not enough information is known about an item to assign a more accurate statement:

 COPYRIGHT NOT EVALUATED	Copyright Not Evaluated. When the copyright status is unknown and your organisation has not yet undertaken effort to determine its status. (URI)
 COPYRIGHT UNDETERMINED	Copyright Undetermined. When the copyright status is unknown and your organisation has undertaken an (unsuccessful) effort to determine its status, typically when key facts are missing that would enable that determination. (URI)
 NO KNOWN COPYRIGHT	No Known Copyright. When the copyright status has not been determined conclusively, but your organisation has reasonable cause to believe it is no longer covered by copyright or related rights. (URI)

Comparing CC tools and licences to RightsStatements.org labels

As a recap:

- **CC tools** are used to mark public domain materials (CC0 and Public Domain Mark).
- **CC licences** are used by (or with the permission of) the rightsholder to mark release rights for usage of in-copyright materials.
 - CC open licences include: CC BY, CC BY-SA
 - CC closed licences include: CC BY-ND, CC BY-NC, CC BY-NC-SA, CC BY-NC-ND
- **RightsStatements.org labels** are used to convey the copyright status of materials when CC tools and licences cannot be used

How these licences, tools, and labels compare to each other along the copyright to public domain spectrum is illustrated in the diagrams on the following pages (*Figures 1 and 2*).

Which of these are compatible with Wikimedia platforms?

Content must be marked with an open licence or public domain tool to be included on Wikimedia platforms. Among those discussed above, this includes five machine readable statements.

Category	Outcome	Machine readable statements
Public domain	No new rights are asserted. Digital surrogates and metadata are in the public domain.	<ul style="list-style-type: none"> ● CC0 1.0 Universal Public Domain Dedication (CC0) ● Public Domain Mark 1.0 Universal (PDM) ● No Copyright - United States (NoC-US)
Open	New rights are asserted and the licence aligns with international definitions of "open."	<ul style="list-style-type: none"> ● CC BY (Attribution) ● CC BY-SA (Attribution-ShareAlike)

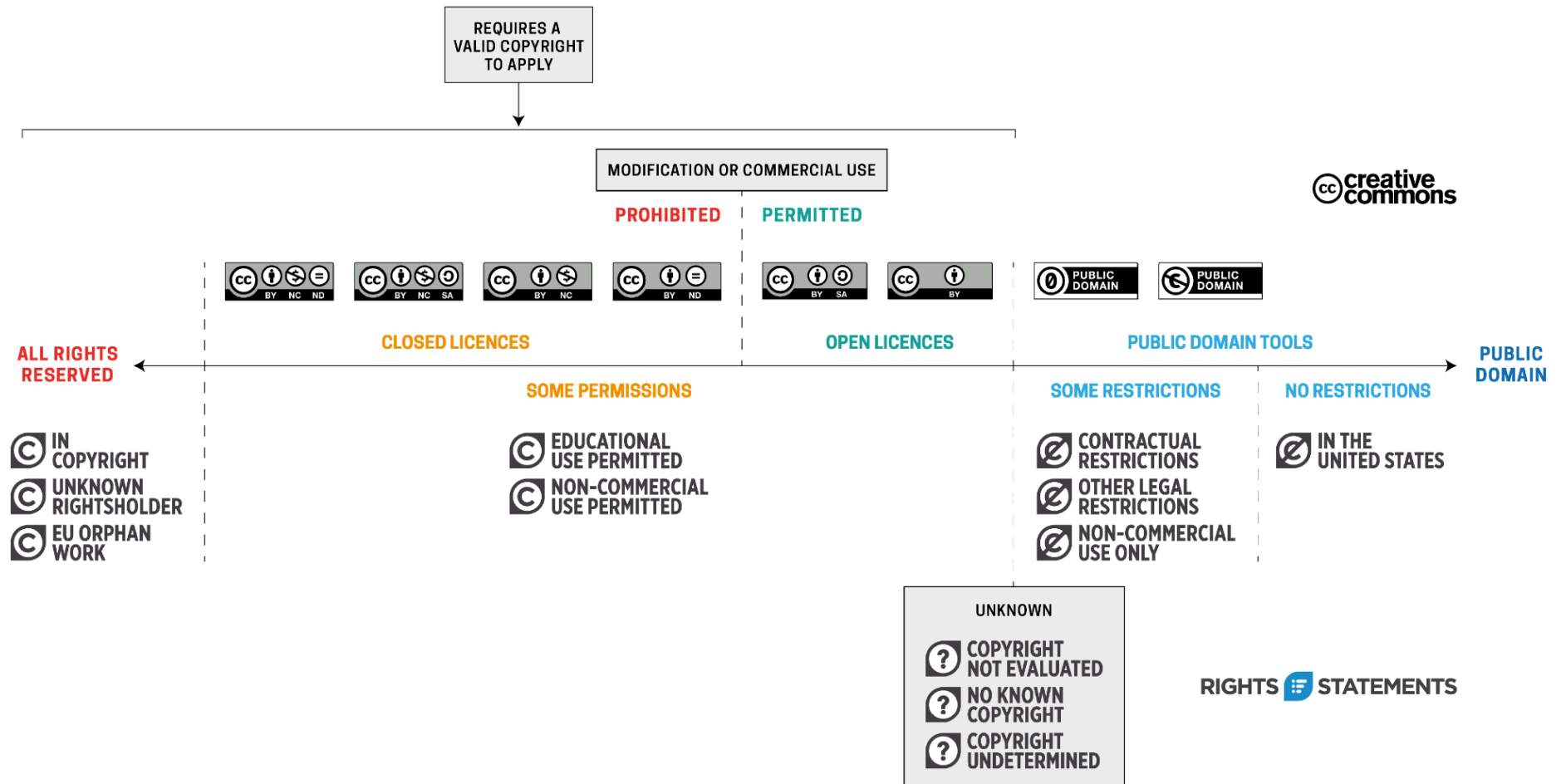


Figure 1. Relationship of CC licences and tools to Rights Statements labels

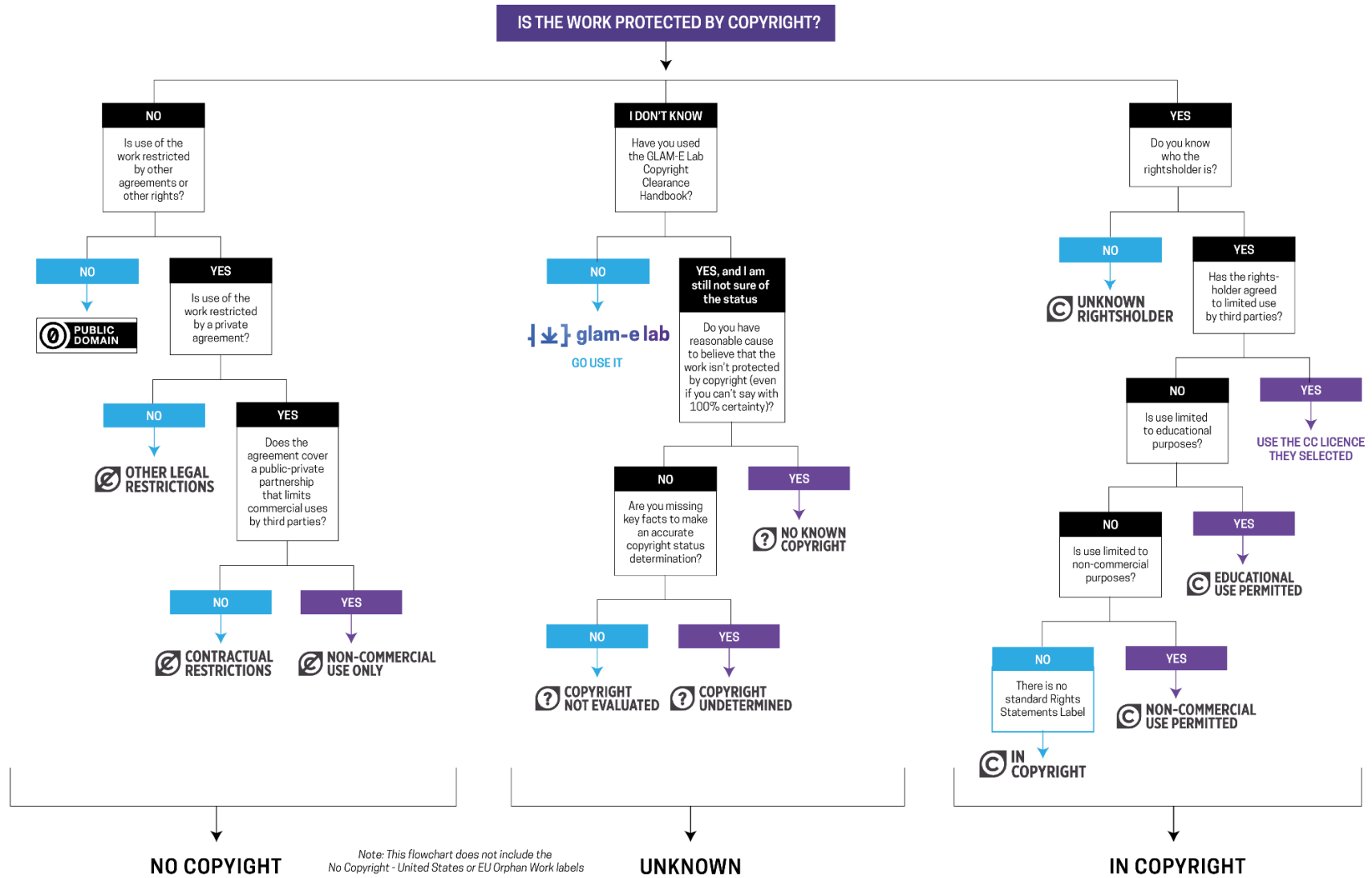


Figure 2. Flowchart for assigning alternative labels and licences