



VERSION 3.0 — CCI AFFILIATE CHECKLIST

The purpose of this checklist is to make it easier for you to version up to Version 3.0. Of course, nothing in this document should replace or override your own legal view as to how a particular change should be implemented according to your national laws. If you have any questions or concerns or even any improvements to this guide, please consult Catharina (catharina@creativecommons.org).

Your new license versions should be prepared in the same technical format as previous license versions. If you have any questions about technical issues, please contact Mike (ml@creativecommons.org).

A. BACKGROUND

Relevant CC blog posts about Version 3.0 are here:

- Getting to Version 3.0 — <http://creativecommons.org/weblog/entry/5908>
- Version 3.0 — Public Discussion Launched — <http://creativecommons.org/weblog/entry/6017>
- Version 3.0 — Revised License Drafts — <http://creativecommons.org/weblog/entry/6120>
- Version 3.0 — It's Happening & With BY-SA Compatibility Language Too — <http://creativecommons.org/weblog/entry/7234>
- Version 3.0 Launched — <http://creativecommons.org/weblog/entry/7249>

A brief article explaining the changes in more detail is here:

- Creative Commons Version 3.0 Licenses — A Brief Explanation — http://wiki.creativecommons.org/Version_3

B. LEGAL CODE CHANGES

1. Changes to be included in all licenses

(a) *Clarifying the Definition of “Collective Work” or “Collection”*

Please make sure that in your jurisdiction licenses, in the corresponding definition of “Collective Work” or “Collection” it is clear that a “Collective Work” or “Collection” is formed when the Work is included with one or more other works.

In the US and Unported licenses, this definition has been amended to read:

“...in which the Work in its entirety in unmodified form, along with one or more other contributions...”

(b) *Clarifying the definitions of “Licensor” and “Original Author”*

Please make sure that in your jurisdiction licenses, in the corresponding definitions of “Licensor” and “Original Author” it is clear that these concepts can consist of either a single individual or entity or multiple.

In the US and Unported licenses these definitions have been amended as follows:

“...means the individual, individuals, entity or entities that offer(s) the Work...”

(c) *Clarify that only terms that restrict the license are prohibited*

You may not offer or impose any terms on the Work that restrict the terms of this License or the ability of a recipient of the Work to exercise the rights granted to that recipient under the terms of the License,

Note that this change also needs to be made to the corresponding “ShareAlike clause” (that appears in Section 4(b) of BY-NC-SA and BY-SA):

You may not offer or impose any terms on the Derivative Work that restrict the terms of this License or the ability of a recipient of the Derivative Work to exercise the rights granted to that recipient under the terms of the License,

(d) *Clarify the anti-TPM language*

When You distribute, publicly display, publicly perform, or publicly digitally perform the Work You may not impose any technological measures on the Work that restrict the ability of a recipient of the Work from You to exercise the rights granted to that recipient under the terms of the License.

Note that this change also needs to be made to the corresponding “ShareAlike clause” (that appears in Section 4(b) of BY-NC-SA and BY-SA):

When You distribute, publicly display, publicly perform, or publicly digitally perform the Derivative Work You may not impose any technological measures on the Derivative Work that restrict the ability of a recipient of the Derivative Work from You to exercise the rights granted to that recipient under the terms of the License.

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(e) Clarify the “Attribution clause” of all licenses

In the “Attribution clause” of all licenses (Section 4(b) of BY, Section 4(c) of BY-SA, Section 4(c) of BY-NC, Section 4(d) of BY-NC-SA, Section 4(b) of BY-ND, Section 4(c) of BY-NC-ND), the following changes need to be made:

“If You..., You must ~~unless a request has been made pursuant to Section 4(a)~~, keep intact all copyright notices for the Work and provide, reasonable to the medium or means You are utilizing: (i) the name of the Original Author (or pseudonym, if applicable) if supplied, and/or (ii) if the Original Author and/or Licensor designate another party or parties (e.g. a sponsor institute, publishing entity, journal) for attribution (“~~Attribution Parties~~”) in Licensor's copyright notice, terms of service or by other reasonable means, the name of such party or parties; the title of the Work if supplied; and to the extent reasonably practicable, the Uniform Resource Identifier, if any, that Licensor specifies to be associated with the Work, unless such URI does not refer to the copyright notice or licensing information for the Work. ~~The credit required by this Section [#]~~ may be implemented in any reasonable manner; provided, however, that in the case of a Derivative Work or a Collective Work, at a minimum such credit will appear ~~if a credit for all contributing authors of the Derivative Work or Collective Work appears, then as part of these credits~~ and in a manner at least as prominent as ~~the credits for the other contributing authors~~.

Note: the example given is from a license that permits derivatives works. In the BY-ND and BY-NC-ND, the reference to “Derivative Works” would obviously be excluded.

(f) Include the “No Endorsement” language in all licenses

At the end of each “Attribution clause” Section 4(b) of BY, Section 4(c) of BY-SA, Section 4(c) of BY-NC, Section 4(d) of BY-NC-SA, Section 4(b) of BY-ND, Section 4(c) of BY-NC-ND) the following needs to be included:

For the avoidance of doubt, You may only use the credit required by this Section for the purpose of attribution in the manner set out above and, by exercising Your rights under this License, You may not implicitly or explicitly assert or imply any connection with, sponsorship or endorsement by the Original Author, Licensor and/or Attribution Parties, as appropriate, of You or Your use of the Work, without the separate, express prior written permission of the Original Author, Licensor and/or Attribution parties.

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(g) *Include an express moral rights acknowledgement*

If your jurisdiction licenses do not already have an express acknowledge that moral rights are retained by the licensor, please make sure to include an express acknowledgement that moral rights are retained along lines similar to the one included in the Unported license (please adjust as makes sense for your jurisdiction). This should be included as a new subparagraph to Section 4 (ie. as Section 4(c) in BY, Section 4(d) in BY-SA etc.):

Except as otherwise agreed in writing by the Licensor or as may be otherwise permitted by applicable law, if You Reproduce, Distribute or Publicly Perform the Work or any Adaptations or Collections, You must not distort, mutilate, modify or take other derogatory action in relation to the Work which would be prejudicial to the Original Author's honor or reputation.

If in your jurisdiction, it is not possible to make any change to a work without infringing moral rights (ie. in Japan), please include an additional statement (in those licenses that permit derivative works (BY, BY-SA, BY-NC, BY-NC-SA)) similar to that included in the Unported license but adjusted to your jurisdiction:

Licensor agrees that in those jurisdictions (e.g. Japan), in which any exercise of the right granted in clause 3(b) of this License (the right to make Adaptations) would be deemed to be a distortion, mutilation, modification or other derogatory action prejudicial to the Original Author's honor and reputation, the Licensor will waive or not assert, as appropriate, this clause, to the fullest extent permitted by the applicable national law, to enable You to reasonably exercise Your right under clause 3(b) of this License (right to make adaptations) but not otherwise.

(h) *Clarify the "Creative Commons Notice" at the end of the license*

Insert a heading "Creative Commons Notice" prior to the text that begins "Creative Commons is not a party to this License..."

The Notice in both the US and Unported licenses, the first sentence of the second paragraph of the Notice has been changed as follows:

Except for the limited purpose of indicating to the public that the Work is licensed under the CCPL, Creative Commons does not authorize the use by either party of the trademark "Creative Commons"...

Please ensure that your jurisdiction license, if it does not already do so, similarly limits the scope of the trademark restriction to that which CC authorizes and is not a blanket prohibition on the use by either party (which would arguably improperly prevent fair use of the mark).

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Add a final sentence to the notice:

Any permitted use will be in compliance with Creative Commons' then-current trademark usage guidelines, as may be published on its website or otherwise made available upon request from time to time. For the avoidance of doubt, this trademark restriction does not form part of the License.

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2. **Changes to be included in the Attribution-ShareAlike and Attribution-NonCommercial-ShareAlike licenses**

Please amend the “ShareAlike clauses” of these two licenses at a minimum to expressly allow relicensing under the Creative Commons (Unported) license and to remove the now inaccurate reference to the CCi jurisdiction licenses as being “iCommons licenses.” This change has been implemented in the BY-SA (US) and BY-NC-SA (US) licenses as follows (taking the example of the BY-NC-SA (US) “ShareAlike clause”):

You may distribute, publicly display, publicly perform, or publicly digitally perform a Derivative Work only under: (i) the terms of this License; (ii) a later version of this License with the same License Elements as this License; (iii) either the Creative Commons (Unported) license or a Creative Commons jurisdiction license (either this or a later version) that contains the same License Elements as this License (e.g. Attribution-NonCommercial-ShareAlike 3.0 (Unported)) (“Applicable License”). You must include a copy of, or the Uniform Resource Identifier for, the Applicable License or other license specified in the previous sentence with every copy or phonorecord of each Derivative Work You distribute, publicly display, publicly perform, or publicly digitally perform. You may not offer or impose any terms on the Derivative Works that restrict the terms of the Applicable License or the ability of a recipient of the Work to exercise the rights granted to that recipient under the terms of the Applicable License. You must keep intact all notices that refer to the Applicable License and to the disclaimer of warranties. When You distribute, publicly display, publicly perform, or publicly digitally perform the Derivative Work, You may not impose any technological measures on the Derivative Work that restrict the ability of a recipient of the Derivative Work from You to exercise the rights granted to that recipient under the terms of the Applicable License. This Section 4(b) applies to the Derivative Work as incorporated in a Collective Work, but this does not require the Collective Work apart from the Derivative Work itself to be made subject to the terms of the Applicable License.

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3. **Changes to be included in the Attribution-ShareAlike license only**

Once you have made the changes outlined in 2, to implement the compatibility structure, please insert the following definition into Section 1 of your jurisdiction license where appropriate:

"Creative Commons Compatible License" means a license that is listed at <http://creativecommons.org/compatiblelicenses> that has been approved by Creative Commons as being essentially equivalent to this License, including, at a minimum, because that license: (i) contains terms that have the same purpose, meaning and effect as the License Elements of this License; and, (ii) explicitly permits the relicensing of adaptations of works made available under that license under this License or a Creative Commons jurisdiction license with the same License Elements as this License.

Then amend the "ShareAlike clause" of your BY-SA (Section 4(b)) license as follows:

You may Distribute or Publicly Perform an Adaptation only under: (i) the terms of this License; (ii) a later version of this License with the same License Elements as this License; (iii) either the Creative Commons (unported) License or a Creative Commons jurisdiction license (either this or a later license version) that contains the same License Elements as this License (e.g., Attribution-NonCommercial-ShareAlike 3.0 US); ~~(iv) a Creative Commons Compatible License. If you license the Adaptation under one of the licenses mentioned in (iv), you must comply with the terms of that license. If you license the Adaptation under the terms any of the licenses mentioned in (i), (ii) or (iii) (the "Applicable License"), you must comply with the terms of the Applicable License generally and the following provisions: (1)~~ You must include a copy of, or the URI, for Applicable License with every copy of each Adaptation You Distribute or Publicly Perform. You may not offer or impose any terms on the Adaptation that restrict the terms of the Applicable License or the ability of the recipient of the Adaptation to exercise the rights granted to that recipient under the terms of the Applicable License. You must keep intact all notices that refer to the Applicable License and to the disclaimer of warranties with every copy of the Work as included in the Adaptation You Distribute or Publicly Perform. When You Distribute or Publicly Perform the Adaptation, You may not impose any effective technological measures on the Adaptation that restrict the ability of a recipient of the Adaptation from You to exercise the rights granted to that recipient under the terms of the Applicable License. This Section 4(b) applies to the Adaptation as incorporated in a Collection, but this does not require the Collection apart from the Adaptation itself to be made subject to the terms of the Applicable License.

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4. **Changes to be made to the licenses that permit derivative works (ie. the Attribution, Attribution-ShareAlike, Attribution-NonCommercial, Attribution-NonCommercial-ShareAlike)**

- (a) *Increasing the prominence of the requirement that licensees identify that their derivatives are derivatives of the original work*

In Section 3(b) — License Grant, the following should be inserted in the provision that grants the right to make derivatives/adaptations:

to create and reproduce Derivative Works provided that any such Derivative Work, including any translation in any medium, takes reasonable steps to clearly label, demarcate or otherwise identify that changes were made to the original Work. For example, a translation could be marked “The original work was translated from English to Spanish.” or a modification could indicate “The original work has been modified.”;

Corresponding to this amendment, in attribution provision of each of these licenses (Section 4(b) of BY; Section 4(c) of BY-SA; Section 4(c) of BY-NC; Section 4(d) of BY-NC-SA), the following should be inserted:

and, consistent with Section 3(b) in the case of a Derivative Work, a credit identifying the use of the Work in the Derivative Work (e.g., "French translation of the Work by Original Author," or "Screenplay based on original Work by Original Author").

Please note: this language does **not** require that the licensee identify “the” changes that were made to the work, but only “that” changes were made to the work. It is not different to the derivative work attribution requirement that has been in CC licenses since their launch.

5. **Changes to be included in the licenses that permit commercial use (ie. Attribution, Attribution-ShareAlike and Attribution-NoDerivatives)**

- (a) *Adjust your collecting society language*

Please refer to the document included as an attachment to this document entitled “Overview of CS specific provisions in the Creative Commons Licenses.” If your jurisdiction license is mentioned as one of the licenses that are inaccurate, please pay special attention to ensure that the inaccuracies are fixed in this new version of the licenses.

Even if your jurisdiction licenses are not mentioned (we could only analyze those in English or German), please review your collecting society language extremely

closely to ensure that they reflect the proper policy that has now been adopted for the treatment of collecting society issues.

The treatment of collecting societies in the Unported license now reflects this policy. For licenses that permit commercial use, the relevant language appears in Section 3 — License Grant as follows:

For the avoidance of doubt:

- (i) Non-waivable Compulsory License Schemes. In those jurisdictions in which the right to collect royalties through any statutory or compulsory licensing scheme cannot be waived, the Licensor reserves the exclusive right to collect such royalties for any exercise by You of the rights granted under this License;
- (ii) Waivable Compulsory License Schemes. In those jurisdictions in which the right to collect royalties through any statutory or compulsory licensing scheme can be waived, the Licensor waives the exclusive right to collect such royalties for any exercise by You of the rights granted under this License; and,
- (iii) Voluntary License Schemes. The Licensor waives the right to collect royalties, whether individually or, in the event that the Licensor is a member of a collecting society that administers voluntary licensing schemes, via that society, from any exercise by You of the rights granted under this License.

Please make note of the following features of this provision: (1) if you are in a jurisdiction in which you believe compulsory licenses are not waivable, then you should adopt the option in subparagraph (i) (ie. that the right to collect for compulsory royalties is reserved). (2) if you are in a jurisdiction in which you believe that compulsory royalties are waivable, then you should adopt the option in subparagraph (ii) (ie. that the right to collect compulsory royalties is waived). (3) the right to collect for voluntary royalties should be waived and please take care to ensure that the provision is phrased such that there is no misleading implication that a CC licensor can be a member of a voluntary collecting society (ie. make sure your language reflects language choice similar to “in the event that..” used in the Unported license); and, (4) the US licenses include collecting society provisions only for musical compositions and sound recordings because those are the two categories of works most likely subject to voluntary and compulsory collective management schemes in the US. We have drafted the Unported license to apply to any type of work in respect of which there is a voluntary or compulsory schemes available. Please remember to adjust your jurisdiction licenses according to the type of schemes applicable in your jurisdiction. *If you have questions about your collecting society language*

implementation, please consult with Catharina (catharina@creativecommons.org) and Paul Keller (paul@waag.org).

6. **Changes to be included in the licenses that permit only noncommercial use (ie. Attribution-NonCommercial, Attribution-NonCommercial-ShareAlike and Attribution-NonCommercial-NoDerivatives)**

(a) *Adjust your collecting society language*

Please refer to the document included as an attachment to this document entitled “Overview of CS specific provisions in the Creative Commons Licenses.” If your jurisdiction license is mentioned as one of the licenses that are inaccurate, please pay special attention to ensure that the inaccuracies are fixed in this new version of the licenses.

Even if your jurisdiction licenses are not mentioned (we could only analyze those in English or German), please review your collecting society language extremely closely to ensure that they reflect the proper policy that has now been adopted for the treatment of collecting society issues.

The treatment of collecting societies in the Unported license now reflects this policy.

For licenses that permit only noncommercial use, this policy is expressed in Section 4 — Restrictions as follows:

(##) For the avoidance of doubt:

- (i) Non-waivable Compulsory License Schemes. In those jurisdictions in which the right to collect royalties through any statutory or compulsory licensing scheme cannot be waived, the Licensor reserves the exclusive right to collect such royalties for any exercise by You of the rights granted under this License;
- (ii) Waivable Compulsory License Schemes. In those jurisdictions in which the right to collect royalties through any statutory or compulsory licensing scheme can be waived, the Licensor reserves the exclusive right to collect such royalties for any exercise by You of the rights granted under this License if Your exercise of such rights is for a purpose or use which is otherwise than noncommercial as permitted under Section 4(b) and otherwise waives the right to collect royalties through any statutory or compulsory licensing scheme; and,
- (iii) Voluntary License Schemes. The Licensor reserves the right to collect royalties, whether individually or, in the event that the

Licensors are members of a collecting society that administers voluntary licensing schemes, via that society, from any exercise by you of the rights granted under this License that is for a purpose or use which is otherwise than noncommercial as permitted under Section 4(c).

Please make note of the following features of this provision: (1) if you are in a jurisdiction in which you believe compulsory licenses are not waivable, then you should adopt the option in subparagraph (i) (ie. that the right to collect for compulsory royalties is reserved). (2) if you are in a jurisdiction in which you believe that compulsory royalties are waivable, then you should adopt the option in subparagraph (ii) (ie. that the right to collect compulsory royalties is reserved only for uses that fall outside of the noncommercial permission but is otherwise waived). (3) the right to collect for uses that are outside the permitted noncommercial scope is reserved, whether that collection happens individually or via a collecting society. Please take care to ensure that the provision is phrased such that there is no misleading implication that a CC licensor can be a member of a voluntary collecting society (ie. make sure your language reflects language choice similar to “in the event that...” used in the Unported license); and, (4) the US licenses include collecting society provisions only for musical compositions and sound recordings because those are the two categories of works most likely subject to voluntary and compulsory collective management schemes in the US. We have drafted the Unported license to apply to any type of work in respect of which there is a voluntary or compulsory schemes available. Please make sure your jurisdiction licenses is adjusted according to the type of schemes applicable in your jurisdiction. *If you have questions about your collecting society language implementation, please consult with Catharina (catharina@creativecommons.org) and Paul Keller (paul@waag.org).*

7. **Changes *not* to be made to any of your jurisdiction licenses**

You may have noticed that the Creative Commons Unported licenses include a new clause that has not previously been included in the CC licenses — clause 8(f). This clause is specifically and only necessary for the CC Unported license; not for any jurisdiction licenses. It is necessary in the Unported licenses because they are based on international treaties, not national laws, and thus, the clause is designed to ensure the license terms take effect according to national laws so as to be enforceable in a national court.

Consequently, *do not* include any clause 8(f) in your jurisdiction license and please make sure to leave out any mention of clause 8(f) in the final paragraph of clause 3. In other words, in those licenses that permit commercial use (BY, BY-SA and BY-ND), the final paragraph of clause 3 should continue to read:

The above rights may be exercised in all media and formats whether now known or hereafter devised. The above rights include the right to make

such modifications as are technically necessary to exercise the rights in other media and formats. All rights not expressly granted by Licensor are hereby reserved.

And in those licenses that permit only noncommercial use, the final paragraph of clause 3 should continue to read (taking the example of the BY-NC-SA):

The above rights may be exercised in all media and formats whether now known or hereafter devised. The above rights include the right to make such modifications as are technically necessary to exercise the rights in other media and formats. All rights not expressly granted by Licensor are hereby reserved, including but not limited to the rights set forth in Sections 4(e) and 4(f).

Make sure to adjust the clause references in Section 4 to the correct paragraphs for the particular NC license!!

8. Issue for EU licenses that contain the *sui generis* database right

If your license includes the *sui generis* database right, please consult with Catharina (catharina@creativecommons.org) as to whether this right continues to be present in your jurisdiction's version 3.0 licenses.

C. COMMONS DEED CHANGES

Several changes need to be made to your jurisdiction's Commons Deeds:

1. Changes to be made to all Commons Deeds

(a) *Make sure you made the 2.5 changes*

As part of Version 2.5, the attribution description was changed to read:

You must attribute the work in the manner specified by the author or licensor.

Please make sure that this has been updated in your jurisdiction Commons Deed.

(b) *Include the no endorsement language in the attribution description*

The description should be amended as follows:

Attribution. You must attribute the work in the manner specified by the author or licensor (but not in any way that suggests that they endorse you or your use of the work).

- (c) *Include an express recognition that moral rights are reserved.*

Above the existing bulleted conditions, after the key license icons are included, please include an express recognition that moral rights are reserved as follows:

- For any reuse or distribution, you must make clear to others the license terms of this work.
- Any of above conditions can be waived if you get permission from the copyright holder.
- Apart from the remix rights granted under this license, nothing in this license impairs or restricts the author's moral rights.

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2. Changes to be made to the BY-SA Commons Deed

To clarify the human-readable explanation of the ShareAlike condition and the new compatibility structure, please amend the ShareAlike description as follows:

If you alter, transform, or build upon this work, you may distribute the resulting work only under the same or a similar license to this one or a license certified as compatible.

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3. Changes to be made to the BY-NC-SA Commons Deed

To clarify the human-readable explanation of the ShareAlike condition, please amend the ShareAlike description as follows:

Share Alike. If you alter, transform, or build upon this work, you may distribute the resulting work only under the same or a similar license to this one.

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