

NO.	MAIN ARGUMENTS MADE BY LIST COMMENTS	CC RESPONSE
1	GFDL and BY-SA are not compatible.	<p>The “legal codes” of the GFDL and the BY-SA are not literally compatible (ie. you cannot match the obligations under the GFDL with those under the BY-SA); however, the essential freedoms or permissions that each license seeks to provide are compatible — namely, copying, distribution and modification for commercial or noncommercial purposes provided that any modifications are licensed under the same license.</p> <p>Currently, it is the requirement that the modifications be licensed back under <i>the same</i> license that renders collaborative use of both material from projects licensed under each license in compatible and, also and importantly, causes “project bleeding” if a project is dual licensed (ie. derivatives from a dual licensed project cannot go back into that project but must be forked out under one or other license).</p> <p>The proposed amendment seeks to address this — to enable dual licensing or “one-way compatibility” licensing of derivatives from a dual licensed or CC BY-SA project.</p>
2	The proposal effects relicensing; not dual licensing.	<p>Good point. Perhaps this can be addressed by giving people the option to license under a CC license “and/or” the FDL to enable dual licensing of derivatives.</p> <p><i>Suggestion:</i> amend the propose amendment so that people can license:</p> <p>“...Work only under the terms of: (i) this License; (ii) a later version of this License with the same License Elements as this License; (iii) a Creative Commons iCommons license that contains the same License Elements as this License (e.g. Attribution-ShareAlike 2.5 Japan); <u>and/or</u>, (iv) under the GNU Free Documentation License...”</p>
3	BY-SA work could be made part of an invariant	If this argument were true, then the FDL authorizes violation of its own “copyleft” requirement because

	<p>section; the derived work will have SA breaking sections.</p> <p>“...if you publish a work SA I can then produce an FDL work including your work with invariant sections that misrepresent and otherwise abuse it... You then cannot do the same to my work because it is in [sic] invariant section.”</p>	<p>any person making a derivative work under the FDL could take a section of it and declare it to be an invariant section, thereby removing it from being capable of future modification.</p> <p>To prevent against this, the FDL places limits on what can be deemed to be an “Invariant Section.” The test as to what constitutes an “Invariant Section” under the FDL is twofold: (1) it must be a “Secondary Section” that has been declared to be an “Invariant Section” with the notable caveat that <i>“If a section does not fit the above definition of Secondary then it is not allowed to be designated as Invariant.”</i> (emphasis added); (2) it must therefore qualify as a “Secondary Section” which is limited to “a named appendix or a front-matter section of the Document that deals exclusively with the relationship of the publishers or authors of the Document to the Document’s overall subject...and contains nothing that could fall directly within that overall subject.” (emphasis added). Thus, a licensee of a BY-SA work who created a derivative and wished to license it under the FDL could only render a section of their derivative to be an “Invariant Section” if it was (in the words of the FSF) a “nontechnical personal opinions about the topic.”</p> <p>And while that opinion may co-exist unchanged with the derivative work, the concern here seems to be able someone taking another’s work and being able to criticize it and require by license that those criticisms run with the work. However, this concern must surely arise regardless of whether the critical opinion is protected by license requirement or not. Indeed, one of the standard exceptions to copyright law allows criticism and review (in both fair use and fair dealing jurisdictions). This is an issue of freedom of speech and healthy debate in society. The fact that one license may by its terms require that opinion to be kept with the work does not prevent the original version of that work from being disseminated nor does it prevent the original creator from taking the work and adding their own “Invariant Section” to join the earlier critical “Invariant Section”.</p>
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4	<p><i>Suggested solution:</i> BY-SA works can be relicensed as FDL with no invariant sections.</p> <p><i>Issue:</i> how can this be enforced in downstream derivatives under the FDL?</p>	<p>The difficulty with this argument is that then CC is creating a new license — the GFDL minus if you will, ie. the GFDL minus the provisions regarding invariant sections. CC has no authority to do this and also, no desire. We are trying to reduce legal code friction, not expand it by generating more licensing options.</p>
5	<p>Need to remove reference to iCommons license in the relicensing section and replace it with a reference to “another jurisdiction license”.</p>	<p>Agreed that this can be part of versioning to 3.0; not really a central issue for FDL compatibility.</p>
6	<p>How do you make an FDL derivative of a BY-SA poem into a song? FDL locks the work down into a textual format.</p>	<p>This is a valid concern given, on reading the FDL and by its own admission, it is written for software documentation. Consequently, the terms of the FDL are highly specific and clearly tailored towards the circumstances of publication of software documentation and textual works. By its own admission, the FDL recommends its application “for works whose purpose is instruction or reference”.</p> <p>Consequently, although legally complying with the FDL’s requirements when modifying a poem into a</p>

		<p>song may be cumbersome and cause you to have more invariant sections, cover texts etc. than actual poem, as a practical matter, it is highly unlikely that a person will choose to apply the FDL to a poem derived from an BY-SA work because it is ill-suited to poems. Thus the practical application of the proposed amendment is highly likely to preclude this theoretical issue from arising.</p>
7	<p>FDL is designed for textual works; does not allow for performances and so grants fewer freedoms, not consistent with the freedoms originally granted by the CC license.</p>	<p>This is another interesting concern about which it would be interesting to learn more from the FSF. One argument may be that the FDL license terminology was not drafted to map exactly the exclusive rights granted by copyright law; that the term “redistribute” was intended to encompass the rights (granted under US copyright law) of, for example, public display and public performance and that the term “modifying” was intended to encompass changing the content and changing format.</p> <p>Regardless of the true intent, the basic freedoms that the FDL enables are, or at the very least, can be argued to be read to be consistent with those that the BY-SA enables and more especially if one acknowledges that the practical effect of the amendment is that the relicensing or dual licensing under the FDL will likely only occur in relation to textual works whose purpose is instruction or reference.</p> <p>CC will update its FAQ and other educational materials relating to its licenses to assist in making licensors and licensees aware of the FDL’s intended use so that the risk of uncertainty and confusion is minimized.</p>
8	<p>“Additional license requirements — added for the sake of interoperability — seem likely to make the licenses harder to use; and in the long term this may be more detrimental to the movement that not being able to incorporate GFDL</p>	<p>This can be addressed by greater information on the site and also by clarifying the Commons Deed about this provision.</p>

	content.”	
9	Proposed license amendment would effect one-way compatibility nicely but should not be used for BY-NC-SA.	Agreed. Proposed amendment shall be limited such that it shall only apply to BY-SA and not BY-NC-SA.
10	“CC simply do not have the right to allow people’s work to be relicensed under a non-CC license if those people have not given CC permission.”	The entire purpose of engaging in this community discussion is to enable those people who use and want to use Creative Commons licensing to have their say, air their concerns and for Creative Commons to listen, learn and understand the overall viewpoint of the community on the proposed amendments. Nothing about this suggests any unilateral conduct on CC’s part. CC has identified the FDL as a license that provides the same essential freedoms as BY-SA (albeit it with different conditions) and consequently, proposed this amendment as a means of better enabling the objectives of those who have adopted the BY-SA license.
11	“When Alice releases a derivative work created from Bob’s BY-SA work, Alice has to comply with the terms of the GFDL, according to the proposed change. How can she do that? There are a number of questions when one compares the GFDL’s requirements and types of information necessary to fulfill those information on the one hand, and the types of information that a typical BY-SA work contains.” Eg. history section, title of the work,	Diligent and useful analysis was done on this issue. In general, the answer will depend on whether the project in question has utilized all of the potential sections outlined in the FDL (cover texts, invariant sections etc.). Additionally, as was pointed out on the list — to the extent a history or invariant section is not previously given, then an FDL licensee must comply with the FDL requirements to the extent practical, similar to the situation where a newly-created work is released under the FDL.