

SUPPLEMENTI

DICO Toolkit for Digital Career Stories

14

IL CAPITALE CULTURALE
Studies on the Value of Cultural Heritage

eum

Rivista fondata da Massimo Montella





IL CAPITALE CULTURALE
Studies on the Value of Cultural Heritage
Supplementi 14 / 2023

eum

Il capitale culturale

Studies on the Value of Cultural Heritage

Supplementi n. 14, 2023

ISSN 2039-2362 (online)

ISBN (print) 978-88-6056-833-5; ISBN (pdf) 978-88-6056-834-2

© 2010 eum edizioni università di macerata

Registrazione al Roc n. 735551 del 14/12/2010

Direttore / Editor in chief Pietro Petrarola

Co-direttori / Co-editors Tommy D. Andersson, Elio Borgonovi, Rosanna Cioffi, Stefano Della Torre, Michela di Macco, Daniele Manacorda, Serge Noiret, Tonino Pencarelli, Angelo R. Pupino, Girolamo Scullo

Coordinatore editoriale / Editorial coordinator Maria Teresa Gigliozzi

Coordinatore tecnico / Managing coordinator Pierluigi Feliciati

Comitato editoriale / Editorial board Giuseppe Capriotti, Mara Cerquetti, Francesca Coltrinari, Patrizia Dragoni, Pierluigi Feliciati, Costanza Geddes da Filicaia, Maria Teresa Gigliozzi, Chiara Mariotti, Enrico Nicosia, Emanuela Stortoni

Comitato scientifico - Sezione di beni culturali / Scientific Committee - Division of Cultural Heritage Giuseppe Capriotti, Mara Cerquetti, Francesca Coltrinari, Patrizia Dragoni, Pierluigi Feliciati, Maria Teresa Gigliozzi, Susanne Adina Meyer, Marta Maria Montella, Umberto Moscatelli, Caterina Paparello, Sabina Pavone, Francesco Pirani, Mauro Saracco, Emanuela Stortoni, Carmen Vitale

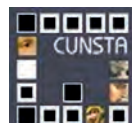
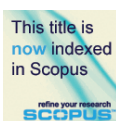
Comitato scientifico / Scientific Committee Michela Addis, Mario Alberto Banti, Carla Barbati, Caterina Barilaro, Sergio Barile, Nadia Barrella, Gian Luigi Corinto, Lucia Corrain, Girolamo Cusimano, Maurizio De Vita, Fabio Donato, Maria Cristina Giambruno, Gaetano Golinelli, Rubén Lois Gonzalez, Susan Hazan, Joel Heuillon, Federico Marazzi, Raffaella Morselli, Paola Paniccia, Giuliano Pinto, Carlo Pongetti, Bernardino Quattrococchi, Margaret Rasulo, Orietta Rossi Pinelli, Massimiliano Rossi, Simonetta Stopponi, Cecilia Tasca, Andrea Ugolini, Frank Vermeulen, Alessandro Zuccari

Web <http://riviste.unimc.it/index.php/cap-cult>, email: icc@unimc.it

Editore / Publisher eum edizioni università di macerata, Corso della Repubblica 51 – 62100 Macerata, tel (39) 733 258 6081, fax (39) 733 258 6086, <http://eum.unimc.it>, info.ceum@unimc.it

Layout editor Oltrepagina srl

Progetto grafico / Graphics +crocevia / studio grafico



Rivista accreditata WOS
Rivista riconosciuta SCOPUS
Rivista riconosciuta DOAJ
Rivista indicizzata CUNSTA
Rivista indicizzata SIMED
Inclusa in ERIH-PLUS

DICO Toolkit for Digital Career Stories

edited by Mara Cerquetti, Concetta Ferrara



Co-funded by the
Erasmus+ Programme
of the European Union



This publication has been funded with support from the European Commission under the Erasmus+ Programme (*DICO – Digital Career Stories – Opening new career paths for arts and culture students*, Project No. 2020-1-FI01-KA226-HE-092733). The European Commission's support for the production of this publication does not constitute an endorsement of the contents, which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

Creative production in the Net: sharing vs protecting

Pierluigi Feliciati*

Abstract

There is a general lack of knowledge among the cultural heritage and art community about the issues concerning the daily practice of online communication, most of which have legal implications requiring the utmost attention in the reuse online. In the era of global content sharing, we do not seem to be sufficiently aware of the extraordinary opportunities in terms of cultural, social and economic development for the community deriving from the adoption of open licenses on digital works in the public domain. In this paper, the author presents the state of the art about legal issues related to the use, reuse, modification and publication of creative digital content on the Net, with particular attention to the European context. Some tools, tips for instructors and students, and a list of best-known platforms offering open multimedia resources adopting open licenses are presented.

* Pierluigi Feliciati, Associate professor of Archival and Information Science, University of Macerata, Department of Education, Cultural Heritage and Tourism, Piazzale Luigi Bertelli, 1, 62100 Macerata, Italy, e-mail: pierluigi.feliciati@unimc.it.



Fig. 1. *Creative Commons guiding the contributors*. This image is a derivative work of *Liberty Leading the People* by Eugène Delacroix (source: <https://en.wikipedia.org/wiki/Creative_Commons#/media/File:CC_guidant_les_contributeurs.jpg>)

1. Introduction

There is a general lack of knowledge among the cultural and art community on the issues concerning the context of online communication, especially its legal implications. They require serious attention, considering they cover an extensive range of activities, from creating creative content online to sharing, modifying, and reusing, even for commercial purposes. In the era of global sharing, we do not seem to be sufficiently aware of the extraordinary opportunities for cultural, social and economic development for the communities deriving from adopting open licenses on content in the public domain. Every form of protection is systematically evaded through technical tips, as the web majors have to realise every day.

Artists, students, and instructors have just advantages in being more aware and sharing their works openly, enforcing their role in the community, convinc-

ing other members to adopt the same openness, and disseminating their ideas and creativity more widely. A survey on the view of artists and performers against copyright regulations in Europe has been recently launched, and the data were shared¹. It is pretty interesting for artists, composers and art experts not to forget that individual creativity has a substantial impact on communities and that any community is part of our society. Thus, it is crucial to be aware of the effects of the limits of circulation we impose on our creative work.

Although we would never publish a book without mentioning its author, title, and date of publication, on the World Wide Web we often run this risk with texts, images, or audiovisual resources, adopting a lighter behaviour than usual. If we browse websites and social platforms, it is easy to come across numerous violations of Copyright or other types of rules, not necessarily committed with awareness.

The following few pages aim to present the essentials of this topic in the European context, guiding culture and art sector students and instructors to knowingly adopt their preferences whenever they publish, share, or reuse creative content on the web².

2. *The author, the work and the public*

The set of rules protecting original literary and artistic works is defined as *author's rights* in civil law countries (Italy, France, Germany, etc.) and *Copyright* in common law countries (United Kingdom, United States, Australia, Canada). Both author's rights and Copyright (often synthesised as IPR, *Intellectual Property Rights*) provide a series of rules regulating the relationship between the author, the work and the public. These rules are part of intellectual property regulation, including industrial property (patents, trademarks, designations of origin, utility models, topographies of semiconductor products, trade secrets and new plant varieties).

Author's rights consist of *moral rights*, protecting the author's personality, and *economic rights*, aimed at guaranteeing the author an eventual remuneration through financial exploitation. These rights arise at the moment of the creation of the work without any formality and protect literary and artistic works, whatever the way or form of their expression.

The Berne Convention for the Protection of Literary and Artistic Works³, a fundamental international agreement which established for the first time the

¹ Caso *et al.* 2021; Priora, Sganga 2021; Poort, Pervaiz 2022.

² Part of this contribution is based on ICOM Italia 2021.

³ WIPO 1979.

mutual recognition of copyright/author's right among the signatory parties, recognises to the subscribing countries⁴ the faculty to prescribe that literary and artistic works are protected "when fixed on a material support". This requirement, admitted by the Berne Convention, is typical of common law countries but, for example, has not been adopted literally by Italian legislation. Nevertheless, while different from fixation, a recent Court of Justice of the European Union case requires an element of objectivity or stability for a work to be qualified for protection⁵.

The systems of author's rights and Copyright traditionally focus on two different profiles:

- the first on the author as a person,
- the second on the right to copy the work.

Although these different approaches have some apparent differences (such as, for example, a different regulation of moral rights), they have evolved in the global arena to play a very similar function. They increasingly tend to converge, forced by the evolution of forms of online exploitation of works and, in the European Union, by harmonising copyright law.

We may ask ourselves whether all creative works have an author. The work must be the result of an author's own intellectual creation. They can choose how to reveal their authorship if under their real name, a pseudonym, or to remain anonymous⁶. Nevertheless, there can be *joint works* and *collective works*. The first case is when several authors form a work, and they cannot be distinguished from each other (as in the case of a book written by several authors). Instead, several authors create collective works, but the individual contributions remain distinct, autonomous, and separable.

As regards the distinction between moral and economic rights, the first set was born with the intent to protect the artistic personality of the author. The Berne Convention requires the adhering States to recognise two forms of moral rights: the *right of attribution* and the *right of integrity of the work*, to oppose any deformation, mutilation or other modification, as well as any other act to the detriment of the work itself, which would harm the honour or reputation of the author. The specific regulation on this matter is left to the legislation of the individual States. Moral rights, not subject to specific harmonisation,

⁴ Today, the Berne Convention was signed by over 180 member countries and city-states. The Convention requires that all members complain to certain levels of copyright protection, and protect the works made by citizens of other members.

⁵ See the *Copyright case: Levola v Smilde*, Court of Justice of the European Union (CJEU), 2018, where the topic was the possible copyright protection of the taste of a cheese product, <<http://copyrightblog.kluweriplaw.com/2019/02/13/copyright-case-levola-v-smilde-court-of-justice-of-the-european-union-cjeu/>>, 22.10.2022.

⁶ There exist also some works, called *orphan works*, which are presumed to be still under Copyright Law protection, but whose rights holders are unknown or untraceable.

are *non-transferable* and often *not renounceable* (even if within some jurisdictions renunciation is possible). Their duration can vary considerably: the minimum established at the international level is at least the same duration as economic rights, but often, particularly in Continental Europe, they last much longer. In Italy, for example, they are not subject to any term, i.e., perpetual.

Economic right concerns the use and economic exploitation of the work. The authors can decide to transfer or license these rights freely or in exchange of a payment. They allow to exploitation of the work in any manner and in any way they like: publishing, reproducing, transcribing, performing, representing or acting in public, communicating and making available to the public, distributing, translating, elaborating, modifying, lending, or renting the work.

According to Berne Convention, the national legislations determine the conditions of economic rights, and requirements are territorially limited to the Country where they were established. The duration of the economic rights includes the authors' life and a period of 50 years after their death. Moreover, the Countries may specify a longer term. In the European Union, economic rights expire 70 years after the death of the last of the authors. After that date, the works enter into the public domain, but do not lose the moral attribution to the author. There are specific provisions for certain categories of works (collective, joint, anonymous or pseudonymous, unpublished).

Finally, we have to consider also the so-called *Related Rights* (or neighbouring rights). They encourage artistic efforts (such as performing artists of musical or *audiovisual works*) or the economic investment of making a work accessible to the public (phonographic producers, radio and television broadcasters, and film producers). The recent European Digital Single Market Directive (DSM 2019) recognises a short-time related right to publishers of press publications shared on the web, who can receive economic compensation in case of free online uses.

The materials protected by related rights provided by European Copyright laws⁷ are:

- for performers, the fixations of their performances;
- for phonogram producers, the phonograms;
- for the producers of the first fixations of films, the original and copies of their films;
- for broadcasting organisations, the fixations of their broadcasts, transmitted by wire, over the air, by cable, or satellite;
- for press publishers, their press publications made available online to the public by information society service providers.

⁷ European Parliament and the Council 2001; European Parliament and the Council 2006; European Parliament and the Council 2016; European Parliament and the Council 2019. For a general framework see also Westkamp 2017.

3. *What license? From full Copyright to the public domain*

As you probably may guess, there is a vast difference between the imposition of full Copyright limitations to the dissemination and use of creative works and their release under an open license. The web is not exempt from the obligation to respect the law. In order to publish works protected by Copyright law, it is necessary to comply with the rules governing their proper use.

The publication is *free* just if:

- the work is in the *public domain*,
- it falls *within an exception or limitation* provided by law, or
- the publisher has the permission of the rights holder (e.g., the work is released under Creative Commons license, see below).

By default, it is impossible (and a Copyright infringement) to publish a work without the rights holder's permission. Please note that the publication on a website also requires respect to all the rules concerning the type of content (e.g., privacy policy, or data protection)⁸.

A *copyright license* is a contract granting certain rights to use a work or other protected materials. In the copyright license agreement, the rights of use are not transferrable, but the licensor remains the owner, as opposed to what happens in an assignment agreement. The different types of information (code, content, data) require different types of licenses.

There is a system of exceptions and limitations to correctly balance the Copyright with the public's right to access culture and free expression. In practice, it is possible to use content protected by copyright law without the authorisation of the rights holder.

The exceptions (e.g., illustrative purposes for educational use or scientific research, quotation, criticism, etc.) exclude the applicability of protections, making free the use of the work. Moreover, the exemptions make the work usable without the need to seek the prior permission of the rightsholder but provide for the payment of equitable compensation (e.g. reprography, personal use).

Important! The recent Directive 2019/790/EU⁹ overturns the previous approach by providing for three mandatory exceptions and, therefore, imposing their reception by Member States (text and data mining for scientific research, digital and cross-border teaching activities, preservation of cultural heritage).

On the other hand, the *public domain* indicates that *something belongs to everyone*. Although there is no legislative definition of public domain, it is the condition under which a work can be freely used by anyone, for any purpose (without prejudice to moral rights, at least for most civil law legal systems)

⁸ European Parliament and the Council 2016.

⁹ European Parliament and the Council 2019.

without asking permission and without paying anything. The public domain, in this sense, represents the opposite situation to Copyright, which typically grants the authors of the work exclusive rights over it. The legislator, in fact, has considered that in the balance between the author's interest in the economic exploitation and the public's interest in access to culture, in some cases the latter should prevail.

Works in the *public domain* are:

- works that the legislator defines public since their first publication (e.g., laws, judgements, etc.);
- works whose terms of economic rights have expired;
- works that have been freely *dedicated to the public* by the authors.

Out-of-commerce works have never been in circulation, are no longer in circulation, or are not available through ordinary commercial channels. They are protected by European Copyright law unless Copyright has expired. The EU Directive 2019/790 on copyright¹⁰ offers two ways to allow cultural institutions holding out-of-commerce works to use them.

First, EU Member States could provide that a collective management organisation, following its mandates from rights holders, may conclude a non-exclusive licence for non-commercial purposes with a cultural heritage institution for the reproduction, distribution, communication to the public or for making available to the public of out-of-commerce works or other matter permanently in the collection of the institution, irrespective of whether all rights holders covered by the licence have mandated the collective management organisation.

Alternatively, suppose no sufficiently representative collective management organisation exists. In that case, Member States could provide an exception to the rights to allow cultural heritage institutions to make available, for non-commercial purposes, out-of-commerce works or other matter permanently in their collections, on condition that the name of the author or any other identifiable right holder.

Besides public domain and Copyright, in recent years another exciting approach arose, to be considered while releasing our creative work in the Net: *fair use*. Fair use is the right to use copyrighted material without permission or payment in a specific limited capacity. The doctrine of fair use originated in the Anglo-American common law during the 18th and 19th centuries as a way of preventing copyright law from being too rigidly applied¹¹.

It is acknowledged that sometimes the most appropriate content to help students meet the proposed learning objectives may be a copyrighted resource. If we are going to rely on fair use, it is essential that we first understand its

¹⁰ European Parliament and the Council 2019.

¹¹ Aufderheide, Jaszi 2011; Wikipedia in English, *Fair use*, <https://en.wikipedia.org/wiki/Fair_use>, 22.10.2022.

guidelines. The meaning of FAIR differs between the US law (which includes four specific exceptions to Copyright) and Europe. In our continent, the Commission introduced some amendments in the Copyright law inspired by the so-called American *Fair Use Act*: «Member States shall ensure that the fair use of a protected work, including such use by reproduction in copies or audio or by any other means, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research, does not constitute a criminal offence»¹².

FAIR content stands for data and information meeting these 4 principles:

- Findability,
- Accessibility,
- Interoperability,
- Reusability.

4. *A set of open licenses: Creative Commons*

Creative Commons (CC) is an American non-profit organisation and international network devoted to educational access and expanding the range of creative works available for others to build upon legally and to share. The organisation has released several copyright licenses, known as Creative Commons licenses, free of charge to the public.

A Creative Commons license is helpful when an author wants to give others the right to share, use, and build upon a work that s/he has created. Creative Commons provides a broad author flexibility and protects the people who use or redistribute an author's work from copyright infringement concerns as long as they abide by the conditions specified in the license by which the author distributes the work.

In a few words, these licenses allow authors of creative works to communicate which rights they reserve and which rights they waive for the benefit of recipients or other creators. An easy-to-understand one-page explanation of rights, with associated visual symbols, explains the specifics of each Creative Commons license. Content owners still maintain their moral rights, but Creative Commons licenses give standard releases that replace the individual negotiations for specific rights between copyright owner (licensor) and license necessary under an *all rights reserved* copyright management.

¹² The U.S. Code Section 107 – *Limitations on exclusive rights: Fair use* reads that «the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright». See: <<https://www.law.cornell.edu/uscode/text/17/107>>, 22.10.2022.

Creative Commons has been an early participant in the *copyleft* movement, which seeks to provide alternative solutions to Copyright, and has been dubbed *some rights reserved*¹³. Creative Commons has been credited with contributing to a re-thinking of the role of the “commons” in the “information age”. Their frameworks help individuals and groups distribute content more freely while still protecting themselves and their intellectual property rights legally.

According to its founder Lawrence Lessig, Creative Commons’ goal is to counter the dominant and increasingly restrictive permission culture that limits artistic creation to existing or powerful creators. Lessig affirms that modern culture is dominated by traditional content distributors in order to maintain and strengthen their monopolies on cultural products such as popular music and popular cinema, and that Creative Commons can provide alternatives to these restrictions¹⁴.

In mid-December 2020, Creative Commons released its strategy for the upcoming five years, which will focus more on three core of goals including advocacy, infrastructure innovation, and capacity building¹⁵.

Creative Commons is only a service provider for standardised license text, not a party in any agreement. No central database of Creative Commons works is controlling all licensed works and the responsibility of the Creative Commons system rests entirely with those using the licences. All copyright owners must individually defend their rights and no central database of copyrighted works or existing license agreements exists.

The six Creative Commons licenses and the public domain dedication tool give creators a range of options. The best way to decide which is appropriate for you is to think about why you want to share your work, and how you hope others will use that work.

CC licenses scale:

- from the least open, *full Copyright* (i.e. all rights reserved, not managed by Creative commons); Copyright limits a user’s ability to modify, reuse, share, or copy content. Under Copyright, the rights of the user are limited as compared to the rights of the publisher. Full Copyright is symbolised by ©, a symbol often used with superficiality
- to the most open, *Public domain*, also known as CC 0, or CC Zero.










In opposition to *full Copyright*, open licenses allow authors and publishers to decide which rights they want to share with users. Creative Commons provides the legal framework applicable also to Educational Resources.

To recap the open licenses offered by Creative Commons (in the 4.0 version), they are:

¹³ Broussard 2007.

¹⁴ Lessig 2006.

¹⁵ Creative Commons 2020; Stihler 2020.

 or  or  <p>CC 0, Public domain¹⁶</p>	<p>This license consists of all the creative work to which no exclusive intellectual property rights apply. Those rights may have expired, forfeited, expressly waived, or may be inapplicable¹⁷.</p>
 <p>CC BY¹⁸</p>	<p>This license allows reusers to distribute, remix, adapt, and build upon the material in any medium or format, so long as attribution is given to the creator. The license allows for commercial use.</p>
 <p>CC BY-SA¹⁹</p>	<p>This license allows reusers to distribute, remix, adapt, and build upon the material in any medium or format, so long as attribution is given to the creator. The license allows for commercial use. If you remix, adapt or build upon the material, you must license the modified material under identical terms.</p>
 <p>CC BY-NC²⁰</p>	<p>This license allows reusers to distribute, remix, adapt, and build upon the material in any medium or format for non-commercial purposes only, and only so long as attribution is given to the creator.</p>
 <p>CC BY-NC-SA²¹</p>	<p>This license allows reusers to distribute, remix, adapt, and build upon the material in any medium or format for non-commercial purposes only, and only so long as attribution is given to the creator. If you remix, adapt, or build upon the material, you must license the modified material under identical terms.</p>
 <p>CC BY-ND²²</p>	<p>This license allows reusers to copy and distribute the material in any medium or format in unadapted form only, and only so long as attribution is given to the creator. The license allows for commercial use.</p>
 <p>CC BY-NC-ND²³</p>	<p>This license enables reusers to copy and distribute the material in any medium or format in unadapted form only, for non-commercial purposes only, and only so long as attribution is given to the creator.</p>

¹⁶ <<https://creativecommons.org/share-your-work/public-domain/pdm/>>, 22.10.2022.

¹⁷ See also <https://en.wikipedia.org/wiki/Public_domain>, 22.10.2022.

¹⁸ <<https://creativecommons.org/licenses/by/4.0/>>, 22.10.2022.

¹⁹ <<https://creativecommons.org/licenses/by-sa/4.0/>>, 22.10.2022.

²⁰ <<https://creativecommons.org/licenses/by-nc/4.0/>>, 22.10.2022.

²¹ <<https://creativecommons.org/licenses/by-nc-sa/4.0/>>, 22.10.2022.

²² <<https://creativecommons.org/licenses/by-nd/4.0/>>, 22.10.2022.

²³ <<https://creativecommons.org/licenses/by-nc-nd/4.0/>>, 22.10.2022.

To close this list of art licenses, I quote the Artistic License initiative²⁴. It was launched by the Open Source Initiative²⁵ (OSI) a California (USA) public benefit corporation founded in 1998 with the mission to Open Source community-building, education, and public advocacy to promote awareness and the importance of non-proprietary software.

The symbol of Open Source Initiative is reproduced here and the Artistic License means that everyone is permitted “to copy and distribute verbatim copies of this license document, but changing it is not allowed”. The intent is that the Copyright Holder maintains some artistic control over the development of that software Package while still keeping the Package available as open source and free software.



5. *The European copyright provisions: a compass*

To conclude this description of legal issues concerning the release of creative works on the web, each Country adopts specific regulations regarding creative works' Copyright under the European legal umbrella.

A recent research project funded by the Horizon 2020 programme, *Rethinking digital copyright law for a culturally diverse, accessible, creative Europe*, among others, provided a map of EU and national copyright provisions with an impact on digitisation practices by Galleries, Libraries, Archives and Museums²⁶ and on the perspectives of authors and performers²⁷. This map strategically focuses more in detail on seven selected countries (Denmark, Estonia, Germany, Hungary, Ireland, Italy, and The Netherlands) and one former Member State (the United Kingdom). The targets chosen are representative because of the interest raised by their comparison and the resources collected for the analysis.

Within the domain covered by the DICO project, the interest could probably be more about galleries, museums, artists and performers than on archives and libraries, even if there exist common issues and solutions and it is noticeably recommendable to foster every opportunity for collaboration among cultural professionals.

²⁴ <<https://opensource.org/licenses/artistic-license-2.0>>, 22.10.2022.

²⁵ <<https://opensource.org/about>>, 22.10.2022.

²⁶ Caso *et al.* 2021; Priora, Sganga 2021.

²⁷ Poort, Pervaiz 2022.

6. *Open licenses adopted in some Arts&Culture platforms*

To be aware of who is adopting open licenses for digital works in the Arts&Culture sector, mainly in Europe, here below I list a set of best practices notable for their popularity and impact.

A. *Openverse: Creative Commons images searching tool (CC licenses)*

The searching tool *Openverse*²⁸ offers an extensive library of free stock photos, images, and audio, available for free use under a Creative Commons license or in the public domain. It provides the searching of all content or separately among images or audio files.

Openverse is the successor to *CC Search*, launched by Creative Commons in 2019, and searches across more than 300 million images going beyond simple search to aggregate results across multiple public repositories into a single catalogue. Its goal is to add additional media types, such as open texts and audio, with the ultimate goal of providing access to all 1.4 billion Creative Commons licensed and public domain works on the web²⁹. *Openverse* does not verify whether the images are correctly Creative Commons licensed or whether the attribution and other licensing information are accurate or complete.

B. *Wikipedia (CC BY SA)*

Wikipedia is a multilingual free online encyclopaedia written and maintained by a community of volunteers through open collaboration and a wiki-based editing system³⁰. When the project started in 2001, all text in Wikipedia was covered by the GNU Free Documentation License, a *copyleft*³¹ license permitting the redistribution, creation of derivative works, and commercial use of content while authors retain the Copyright of their work. In 2009, the Wikimedia Foundation³² decided to relicense its content to CC BY-SA.

The handling of media files (e.g., image files) varies across language editions: some, such as the English Wikipedia, include non-free image files under *fair use* doctrine (see above), while some others have opted not to. The multi-

²⁸ <<https://search.openverse.engineering/>>, 22.10.2022.

²⁹ <<https://search-production.openverse.engineering/about>>, 22.10.2022.

³⁰ <<https://en.wikipedia.org/wiki/Wikipedia>>, 22.10.2022.

³¹ «Copyleft is the legal technique of granting certain freedoms over copies of copyrighted works with the requirement that the same rights be preserved in derivative works», English Wikipedia article *Copyleft*, <<https://en.wikipedia.org/wiki/Copyleft>>, 22.10.2022.

³² <<https://wikimediafoundation.org/>>, 22.10.2022.

media repository managed by the Wikimedia Foundation is called *Wikimedia Commons*³³. It contains millions³⁴ of open images, sounds, videos and other media files, which can be used across all of the Wikimedia projects in all languages, or downloaded for offsite use.

C. *Europeana* (CC 0)

*Europeana*³⁵ is the European Commission Portal, funded in 2008, which provides cultural heritage enthusiasts, professionals, teachers, and researchers with digital access to European cultural heritage material³⁶. It gives access to tens of millions of cultural heritage items (artworks, books, music, and videos on art, newspapers, archaeology, fashion, science, sport, and much more) shared from over 4,000 different institutions across all of Europe. The core values of *Europeana* (usable, mutual, reliable) come from the consideration that access to cultural heritage leads to positive social and economic change, and digital technology can support and accelerate that change.

This mission implies that *Europeana* content providers must sign the *Europeana Public Domain Charter*³⁷, available in 15 languages, and highlights the importance of the public domain (CC 0 license) by establishing *Europeana*'s views for a healthy public domain and recommendations for preserving its function.

D. *Rijkstudio* (open reuse)

The Rijksmuseum of Amsterdam (Netherlands) launched the *Rijkstudio* project³⁸ in 2013, anticipating its reopening. It aims to open up the Rijksmuseum collection for everyone, with more than 215,000 artworks made freely available in their digital versions to explore in detail, touch, like and use in their creations. It is a renowned project because of the quality of images, interaction with the public, and concept of “closeness”, the guiding principle of *Rijksstudio*³⁹.

Everyone may bring together their favourite works in a personal *Rijksstudio*, share them with friends or download the images free of charge to create new

³³ <<https://commons.wikimedia.org/>>, 22.10.2022.

³⁴ To be precise, 87,694,068 media files at 19/10/2022.

³⁵ <<https://www.europeana.eu/en>>, 22.10.2022.

³⁶ <<https://www.europeana.eu/en/about-us>>, 22.10.2022.

³⁷ <<https://pro.europeana.eu/post/the-europeana-public-domain-charter>>, 22.10.2022.

³⁸ <<https://www.rijksmuseum.nl/en/rijksstudio>>, 22.10.2022.

³⁹ Gorgels 2013.

artworks. All images presented in Rijksstudio have been released for private and commercial use under the Creative Commons license. In 2014 the Rijksmuseum also launched its first annual Rijksstudio Award design competition.

E. Museo Egizio Collection (CC BY 2.0)

The Egyptian Museum of Turin (Italy), during the general innovation of its setting up and services⁴⁰, has recently launched an online free access service to part of its collections⁴¹: almost 3,000 reproductions out of the practically 40,000 objects are now available for consultation, freely downloadable and re-usable under the Creative Commons license CC BY 2.0. An additional service is the *Archivio fotografico Museo Egizio*⁴², photographs from the 19th and 20th century in the Museum collection whose digital reproductions are released in the public domain (Creative Commons — CC 0). It presents a selection of about 2,000 images among almost 45,000 of the Museo Egizio Photographic Archive (25,000 photographic plates on glass or celluloid, 15,000 slides and 4,500 19th and 20th century prints).

References⁴³

- Aufderheide P., Jaszi P. (2011), *Reclaiming Fair Use: How to Put Balance Back in Copyright*, Chicago: University of Chicago Press.
- Broussard S.L. (2007), *The copyleft movement: creative commons licensing*, «Communication Research Trends», 26, n. 3, pp. 3-43, <http://cscsc.scu.edu/trends/v26/v26_n3.pdf>.
- Caso R., Dore G., Arisi M. (2021), *D5.1 Report on the existing legal framework for Galleries and Museums (GM) in EU*, <<https://doi.org/10.5281/zenodo.5070449>>.
- Creative Commons (2020), *Creative Commons Strategy 2021–2025*, <https://drive.google.com/file/d/10rQDv5Hzuss38oi1ovGuoxHagmFzqn_f/>.
- European Parliament and the Council (2001), *Directive on the harmonisation of certain aspects of Copyright and related rights in the information society*, Directive 2001/29/EC, 22 May 2001, <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0029&from=EN>>.

⁴⁰ Mezzino, Lori 2021.

⁴¹ <<https://collezioni.museoegizio.it/>>, 22.10.2022.

⁴² <<https://archiviofotografico.museoegizio.it/en/section/About/General-introduction/>>, 22.10.2022.

⁴³ All URLs accessed last time on 22.10.2022.

- European Parliament and the Council (2006), *Directive on the term of protection of copyright and certain related rights*, Directive 2006/116/EC, 12 December 2006, <<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32006L0116>>.
- European Parliament and the Council (2016), *Regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)*, Regulation (EU) 2016/679, 27 April 2016, <<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679>>.
- European Parliament and the Council (2019), *Copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC*, EU Directive 2019/790, 17 April 2019, <<https://eur-lex.europa.eu/eli/dir/2019/790/>>.
- Gorgels P. (2013), *Rijksstudio: Make Your Own Masterpiece!*, in *Museums and the Web 2013*, edited by N. Proctor, R. Cherry, Silver Spring, MD: Museums and the Web, Published January 28, 2013, <<https://mw2013.museumsandtheweb.com/paper/rijksstudio-make-your-own-masterpiece/>>.
- ICOM Italia Digital Cultural Heritage Research Group (2021), *FAQs AUTHOR'S RIGHT, COPYRIGHT AND OPEN LICENSES FOR CULTURE ON THE WEB. 100 questions and answers for museums, archives and libraries*, English version, <<https://zenodo.org/record/4608430>>.
- Lessig L. (2006), *Lawrence Lessig on Creative Commons and the Remix Culture. Talking with Talis*, Archived from the original (MP3) on February 5, 2008, <https://web.archive.org/web/20080205034639/http://talk.talis.com/archives/2006/01/lawrence_lessig.html>.
- Mezzino D., Lori F.V.L. (2021), *The digital transformation of the Museo Egizio*, in *Proceedings of the joint international event 9th ARQUEOLÓGICA 2.0 & 3rd GEORES*, Valencia (Spain), 26-28 April 2021, <<http://ocs.editorial.upv.es/index.php/arqueologica20/arqueologica9/paper/view/12041>>.
- Priora G., Sganga C. (2021), *D5.2 Report on the existing legal framework for Libraries and Archives (LA) industries in EU*, <<https://zenodo.org/record/4621049>>.
- Poort J., Pervaiz A. (2022), *Report(s) on the perspectives of authors and performers*, <<https://doi.org/10.5281/zenodo.6779373>>.
- Stihler C. (2020), *Announcing our new strategy: what's next for CC*, Creative Commons, <<https://creativecommons.org/2020/12/16/announcing-our-new-strategy-whats-next-for-cc/>>.
- Westkamp G. (2017), *Digital Copyright Laws in Europe. Regulating Information Access*, Cheltenham (UK): Edward Elgar Publishing.
- WIPO – World Intellectual Property Organization (1979), *Berne Convention for the Protection of Literary and Artistic Works*, September 9, 1886, Berne, completed at Paris on May 4, 1896, and amended on September 28, 1979, <<https://wipolex.wipo.int/en/text/283693>>.

JOURNAL OF THE DIVISION OF CULTURAL HERITAGE

Department of Education, Cultural Heritage and Tourism
University of Macerata

Direttore / Editor

Pietro Petrarola

Texts by

Carola Boehm, Maria Buckley Whatton, Giuseppe Capriotti,
Mara Cerquetti, Fanni Csernátóny, Dorottya Féja, Pierluigi Feliciati, Concetta
Ferrara, Nicola Herd, Piritá Juppi, Barbara Knežević,
Michelle Malone, Robert Marsden, Anna Pais, Ilona Tanskanen.

<http://riviste.unimc.it/index.php/cap-cult/index>

eum edizioni università di macerata



ISSN 2039-2362
ISBN 978-88-6056-833-5

Euro 25,00