

## options for an author to position the "audience" when distributing a work

there are basically 5 options for how you position the "audience" when distributing a work.

- 1- conventional intellectual property laws-copyright
- 2- non-free cultural licenses
- 3- free cultural licenses
  - a) non-copyleft free cultural licenses
  - b) copyleft free cultural licenses
  - c) dedicating to the public domain using a license
- 4- dual/multiple licensing
- 5- writing your own free cultural (or non-free cultural) declaration about the way you want your work to be experienced and not relying on the mediation intellectual property laws or on any other law

the following explanations about these options are from a free cultural perspective and may not sound objective! also there are many other legal issues besides those covered by intellectual property laws mentioned here! also this is not legal advice! and also, i hate exclamation marks...

**free culture** refers to an understanding that cultural works should be freely experienced and built on by anyone, for any purpose, without asking for permission in advance. here, "free" refers to your freedom on the work you experience. it is not about money or selling the work.

the free culture approach is in conflict with the profit driven motivation of culture industry. it suggests new methods of distribution and economics for cultural works by making use of new possibilities featured by information technologies to create, govern and disseminate digital information. free culture is mostly inspired by free/libre and open source software, which were the first to make use of the political and practical potential of these technologies. some people use the term "free" (or free/libre) and some people use "open" to describe such practices. both means that you grant certain rights. these rights briefly cover the freedoms; to experience the work, to copy, to modify/build on, and to redistribute the work and/or modified versions, for any reason, without asking for permission in advance. if you do not grant any of those freedoms, then it is not considered a free cultural work. detailed explanations about the granted freedoms are available from the projects "definition of free cultural works" (<http://www.freedomdefined.org>) and "the open definition" (<http://www.opendefinition.org>), which are based on "the free software definition" (<https://www.gnu.org/philosophy/free-sw.html>) and "the open source definition" (<https://opensource.org/osd-annotated>). free culture is about encouraging others to build on your work as your peers, instead of positioning them as your audience/fan/customer. so here are your options for how you would be positioning other people:

**1-** if you **copyright** your work, there are not many rights you grant to people, and thus there are not many things people can do with it without asking your permission in advance. there are certain things they can dare to do by relying on “fair use” doctrine in intellectual property laws, such as using it for educational or commentary purposes etc. but you always have the right to sue them claiming that their usage is not “fair use”. the court decides if it is “fair use” or not. so they can never be sure what they are allowed to do with your work, and this is called “chilling effect”, which discourages people from building on your work. by the way, you do not need to copyright your work, all "original" intellectual productions are the copyright of their authors by default under conventional copyright laws.

**2-** you can use a **non-free cultural license** and choose which rights you grant to people. you can grant more rights than those granted under conventional intellectual property laws but it is not considered a “free cultural license” unless you grant people all the rights to experience, to copy, to modify/build on, and to redistribute the work and/or modified versions freely, for any purpose, without asking for permission in advance. For example, the licenses that limit modification and commercial use are non-free cultural licenses even if they do grant you more rights than the intellectual property laws. These licenses may be more problematic than the conventional copyright since they create license proliferation and confusion about what "free/libre" and "open" means.

**3-** you can use a **free cultural license** to grant everyone the rights to experience, to copy, to modify/build on, and to redistribute the work and/or modified versions freely, for any reason, without asking for permission in advance. using a free cultural license is a free cultural approach. free cultural licenses make use of the intellectual property laws to reverse the terms of conventional copyright in favor of the people, instead of the author and the culture industry. they are legal agreements and all the parties are bound by the law.

there are 3 approaches to legally enforceable free cultural licenses:

**a) non-copyleft free cultural licenses** are free cultural licenses which grant everyone the rights to experience, to copy, to modify/build on the work and to redistribute the original work as is, but also to distribute their modified versions the way the like, for any purpose, without asking for permission in advance. the only common requirements are to attribute to the author(s) and to the original work; to declare the license of the original work when you redistribute it; and if you make any modifications on the original work, to declare your modifications when you distribute it. the difference between a “copyleft” and a “non-copyleft” free cultural license is that, if you build on a non-copyleft free cultural work, you do not have to license your version with a free cultural license. this means that you can also copyright your version and do not grant others the freedoms on your work as you have exercised on the original work when making your version. A non-copyleft free cultural license renders the work

subject to exploitation but for some people, it is considered more “liberal” than copyleft free cultural licenses, which do not leave the decision to the ethics of the people and instead aims to protect the freedom of others and to expand the domain of free culture. copyleft is a method to keep the work, as well as all the contributions and further work based on a free cultural work, free forever.

**b) copyleft free-cultural licenses** are free cultural licenses which grant everyone the rights to experience, to copy, to modify/build on the work and to redistribute the work or their modified versions under the same terms as the original work, for any purpose, without asking for permission in advance. the difference between a “copyleft” and a “non-copyleft” free cultural license is that, if you build on a copyleft free cultural work, in addition to the common requirements mentioned above for a non-copyleft free cultural work, you also have to distribute your modified version with a copyleft free cultural license. you cannot redistribute it under your own copyright, or even with a non-copyleft free cultural license. for some people this is considered limiting the freedom of the people but others think that this is not limiting the freedom of the people but preventing people from limiting other people's freedom. copyleft is a measure to prevent exploitation of the original work. this may sound a little complicated but the only way for people building on a copyleft free cultural work to make money is to ask for an amount that is not more than the value they add to the original work. eventually, this would lead to an economy based on donations for free cultural works, which can be considered as a measure of how people appreciate the author and the work, instead of the current capitalist economic model of culture industry based on creating artificial scarcity (of both works and artists) to adjust the supply/demand balance for maximum profit. copyleft can be considered a radical and viral approach but it is also a good measure against commercial exploitation of a free cultural work and helps expanding the domain of free culture. some people use non-free cultural licenses to restrict the commercial use of the work but these licenses do not enforce that the work cannot be exploited commercially. It enforces that only the author can exploit it commercially. copyleft approach renders those non-free cultural licenses useless for overcoming commercial exploitation of the works and also creates possibilities for another economics for culture.

**c) another option to release your work as a free cultural work is **dedicating to the public domain using a license**.** dedicating a work to the public domain places it out of the domain of intellectual property laws and the work is not treated like an intellectual work but like anything else in the world; like an abandoned commodity, like a chair left on the street; or like the "commons", like the air. dedicating your work of art to the public domain may put it in the position of the air, or of a chair left on the street. so, when you dedicate your work to the public domain, you may consider that the work has no relation with you any more. No one is obliged to attribute it to you while exercising any freedom on it. to dedicate a work of yours to the public domain in a way enforceable in law, you must declare your dedication using a license with legally enforceable terms. but unfortunately this may not be valid in some jurisdictions. there is also a difference between dedicating a work to the public domain and a work being

in the public domain. a work falls into the public domain when the copyright duration is over under that certain jurisdiction, which can take more than 100 years in some circumstances. unless you want people to wait for having freedom on your work for that long, you may dedicate it to the public domain yourself.

**4-** using **dual/multiple licensing**, you may also use more than one license for your work and let people decide which one to make use of when building on your work. for example, you may license your work with both conventional copyright and a free cultural license, if you want to see which one people appreciate. of course dual licensing with both a copyright license and a free cultural license has no point. dual/multiple licensing is mostly used for free cultural works to encourage incorporating more free cultural works together. it is a method being used in free/libre and open source software to prevent license conflicts when incorporating various code and libraries in a free/libre and open source software. license proliferation is a major problem when building on culture because one may incorporate many works, for instance when making a remix. some free cultural licenses may enforce many other terms besides granting the mentioned freedoms and these terms may cause license conflicts. dual/multiple licensing may be a practical solution to overcome these conflicts since people will be free to use one of the licenses offered which wouldn't conflict with the licenses of the other material incorporated in their work. however, even if the work is dual/multiple licensed, there may be situations where none of these licenses are compatible with the license of other works to be incorporated. licenses do have different terms because each license has its own politics but if the author's politics is that of free culture, then there is a hack to overcome license proliferation for free cultural works. just like this text, you may multiple license your work with all the free cultural licenses available. freedomdefined.org maintains the list of free cultural licenses as well as a definition of free cultural works based on the definitions of both free/libre software and open source software. so you may multiple license your work with all the free cultural licenses listed on freedomdefined.org.

**5-** all of the options above are legal agreements, meaning that all parties are bound by law for the terms of the license. but maybe you do not want yourself and others to be dealing with laws or the mediation of lawyers. then, you may **declare your own statement** for the journey you desire for your work and hopefully this journey would be that of a free culture. you will not be supplying a "legal" guarantee that you will never enforce your legal copyright to the people building on your work. because you have your copyright by default unless you state otherwise in a legally enforceable way. and also there will be no guarantee that that they will always be free to redistribute the work that they have spent time and energy on. but you will be declaring your current intention and the rest is up to your ethics. this may create a precarious situation for your peers, since you may still sue them depending on your existing exclusive rights under conventional intellectual property laws. since your declaration will have no legal status and you will have not used a legally enforceable free cultural license, your work will automatically be covered by conventional copyright, if you happen to enforce it. instead of writing just a declaration, you may

also write your own “license” but the licenses should comply with existing laws to have a “legal” status and it is the work of lawyers, rather than artists. however I think that all free cultural declarations and licenses, whether legally enforceable or not, are great works of art with their own strong political statements of free culture. releasing a work with your free cultural declaration instead of a free cultural license may sound more sincere since you will be using your words, not the lawyers', but it may also create a precarious situation for your peers. a solution to this can be using both your free cultural declaration and multiple free cultural licenses, which comply with your declaration.

if you use free cultural licenses or declarations when you distribute your work, you encourage others to build on your work and position them as your collaborators, as your peers; instead of positioning them as your audience/fan/customer in the hierarchical system of conventional copyright, where they require your permission to reproduce and build on your work.

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