



# Report

# IPR Guidelines

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Europeana Food and Drink

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# Background

Kennisland has partnered with Collections Trust to address questions that partners of Europeana Food and Drink have about Intellectual Property Rights (IPR). Kennisland has been involved in advising the cultural heritage sector on IPR issues for over eight years. Kennisland has been the coordinator of the strategic IPR activities of the [Images for the Future](#) project (2007-2014), at that time Europe's biggest audiovisual digitisation project. Since 2009, Kennisland is working with Europeana on the Licensing and Rights Information Framework and related activities. Kennisland is one of the initiators of [Open Culture Data](#) in the Netherlands (launched in 2012) and the coordinator of [Creative Commons Netherlands](#) (since 2001). Kennisland also co-chairs the copyright working group of the Dutch cultural heritage institutions.



George Hendrik Breitner, Meisje in witte kimono (Rijksmuseum, public domain)

This document provides introductions in the policies, laws and regulations that need to be taken into account when reusing cultural data<sup>1</sup> in the products being developed under the Europeana Food and Drink project. The document builds upon work, products and documents created and tested in other Europeana projects such as Europeana Connect, Europeana Awareness, Europeana Sounds, Europeana Creative and Europeana Cloud. The document provides information on the context of the legal limitations of reusing digital cultural heritage objects.

*These are guidelines as to what steps to take and what questions to ask when reusing data.*

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<sup>1</sup> Note that descriptive data (metadata) and content (digital objects) will be referred to together within the term 'data'. Where necessary a distinction is made between metadata and digital objects.

In the first section a brief introduction is given on the relevant IPR laws that are often associated with cultural heritage objects. Afterwards the document explains how the Europeana Licensing Framework governs data accessed via the Europeana API and Europeana.eu and how this relates to the reuse of data. Since the Creative Commons legal tools are often applied to heritage material, the next sections delve deeper into their specifics. After a brief introduction to the Content Reuse Framework three flowcharts present guidelines to the steps to take and what questions to ask when reusing data from Europeana, when working with data from external platforms and lastly, what to do when user-generated content (UGC) and/or crowdsourced data is involved in the products being developed. Although some exceptions to IPR may be applicable for cultural institutions, they are likely not relevant for the products being developed since they are aimed at use outside of cultural institutions with different partners.

During the Europeana Food and Drink plenary of May 2015 we have collected information on product-specific issues and other suggestions for this document. We distributed a short survey to see what kind of data Europeana Food and Drink is using from Europeana, and other platforms. From our 10 responses 50% uses metadata published on Europeana, 40% (also) uses metadata that does not originate from Europeana, and 20% uses no metadata at all. All products use some form of visual objects, either from Europeana or other parties. Crowdsourcing is used in 60% of the projects.

Regarding IPR, we have seen that there are various (third-party) content providers. Project members have connections to bloggers, local cultural organisations and commercial organisations. Project members have agreements with these content providers, although they are unsure about reuse in their products. Creative Commons licensing is used throughout the projects. CC BY-NC is commonplace, which is not recommended. Some products have a 'Rights Managed' scheme which needs explanation in relation to public domain content and licensed content.

We have received some questions about template agreements for licenses, suggestions about UGC, how to avoid commercial reuse of the developed products. This document tries to inform the project members as much as possible about this issues. If there are remaining questions you can find our details in the contact section. Note that national IPR differ and that it is always advised to check how your member state has applied IPR laws. Consult a local lawyer for certainty of your specific situation.

# A brief introduction in IPR for cultural heritage

“Public domain is the rule, copyright is the exception”. This statement from the [Public Domain Charter](#) might seem surprising, but all cultural works are in the public domain, except for the limited time period when they are restricted by Intellectual Property Rights.

Works that are in the public domain can be used and reused as seen fit by users. This is the basis upon which our society allows culture to grow and evolve. IPR are intended to give the creator of a work an exclusive right to exploit (copy, distribute, publish, use or reuse) his or her work for a limited period of time. The IPR that the project members are most likely to come across in Europeana Food and Drink include copyright, related rights and database rights. These rights can be stacked; one digital object you want to use can be protected by multiple types of IPR, held by multiple creators. Although the European Union has been harmonising national copyright laws in the past decades, it is important to check your national laws to see whether the guidelines in this document apply to your situation.

*Public domain is the rule, copyright is the exception.*

## **Copyright**

Copyright is an exclusive and assignable right that exists in creative works that have enough originality (individual character) to warrant such a right. Copyright exists in literary and artistic works in the literary, scientific and artistic domains. The type of expression makes no difference in the protection, and the right is given automatically to the creator when the work is created. Therefore, a quick sketch on a napkin can have the same amount of protection as a work made by a renowned author, as long as they both are original enough to attract copyright.

Copyright restrictions have a time limit: in Europe the rule of thumb is 70 years after the death of the latest creator of a published work. In some countries, when the author is not a natural person (e.g. an institution) or the author is anonymous/pseudonymous the term of protection is 70 years after first publication. When restrictions based on copyright end, a work enters the public domain. You can generally assume that works created before 1860 are in the public domain, work created between 1860 and 1945 are likely restricted by some form of copyright. When works are created after 1945 you can be sure that the work is still restricted by copyright.

Copyright can be subdivided into two rights: exploitation rights and moral rights. As the name suggests, exploitation rights are those that can be transferred and licensed. This is the economic value of the copyright. Moral rights are non transferrable and in some European jurisdictions perpetual. They protect the creator against slander, and guarantee that attribution must be given. In France and Italy, for example, moral rights are perpetual, while in the UK and The Netherlands moral rights end when the exploitation rights end (i.e. 70 years after the death of the last surviving author). To ensure you do not

breach the moral rights of the author it is important to give attribution to public domain material. You can find more information on this in the [Data Usage Guidelines for Public Domain](#) developed by Europeana.

As stated, not everything warrants copyright restrictions. The most notable exceptions are facts and ideas. Together with partners Kennisland developed the platform [OutofCopyright.eu](#) to determine, based on national copyright legislation, which works belong to the public domain and which not. The platform includes research on rights created during digitisation of heritage materials.

### **Related Rights**

Related rights refer to a group of rights that seem very similar to copyright, but restrict the use of different kinds of material. Related rights are given to performers, phonogram producers, sound recordists, film producers and broadcasters of works. This list is not exhaustive, some jurisdictions have additional related rights. They regulate the right of fixation, reproduction, distribution and broadcasting, and communication to the public. Related rights are very relevant for audio(visual) material. When determining the rights status of audio material there are differences among the composition, performances and recordings (phonogram) of a work. If a composition is in the public domain, it does not necessarily mean that the digital object is also in the public domain, as it may be protected by related rights (performance rights and phonogram rights).

Most related rights are protected for a term of 50 years after an initial performance, broadcast or fixation. With regards to the term of protection for performers and sound recordings, Directive 2011/77/EU has extended the term of protection to 70 years after the first publication or the first communication to the public. However, at the time of writing this directive has not yet been implemented in several member states. As a result, some member states' laws still grant 50 years of protection after the initial performance, broadcast or fixation. For the purpose of this project data providers should assume that related rights are protected for 70 years after the initial performance.

### **Database Rights**

The last relevant IPR are sui generis database rights, an almost solely European phenomenon. These rights are not given to individual objects but only to a certain type of collection of objects, so, as such, they are not relevant when discussing rights statements of digital objects. The Europeana directive on the legal protection of databases (Directive 96/9/EC) defined a database as a "a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means." The restriction for the use of databases is 15 years after creation, after each substantial investment in time, effort and/or money this term of restriction is renewed. Database rights are something to keep in mind when you receive collections from another institution, either by purchasing or being endowed with the material, as the way the collection is structured could be protected by database rights. There is no restriction to the use of databases outside of the European Union.

### **IPR can be stacked**

It is important to note that one (digital) object can contain multiple types of IPR. For example, a performance of a work composed by Johann Sebastian Bach can consist of rights in the lyrics, the composition, the performance by the musicians, the producers of

the piece and several more. Simply noting that Bach has been dead for over 70 years and thus it must be public domain is incorrect. The rights statements on Europeana should reflect all levels of IPR. However, when sourcing for content outside Europeana this stacking of rights should be considered.

The above was a brief overview of relevant laws and legislation, related to IPR, for the Europeana Food and Drink project. There are also policies and contracts to be taken into account, the most important of which is the Europeana Licensing Framework.

## *The Europeana Licensing Framework helps govern the relationships of Europeana, its data providers and its users.*

### **Europeana Licensing Framework**

The Europeana Licensing Framework (ELF) provides an important underlying layer facilitating many of Europeana's activities. The framework helps govern the relationships between Europeana, its data providers and its users. Europeana uses standard, interoperable and machine-readable licenses to allow the data to talk to other applications and services. The licences frame in a clear way what can and cannot be done by human and machine agents with the metadata and with the content it accesses.

The ELF has two clear objectives:

- It ensures that all metadata aggregated can be published by Europeana under the same terms and without any restrictions on reuse. Based on this Europeana makes all metadata available under the terms of the CC0 Public Domain Dedication.
- With regards to the content that data providers make available via Europeana, the licensing framework provides a list of standardised rights statements that must be used by data providers to describe the rights status of these digital objects made available via Europeana. Having a relative small number of standardised rights statements allows users to filter search results based on the reuse conditions.

Additionally, the Europeana Licensing Framework introduces community norms to support best practices among users and reusers. The Framework loosely consists of three parts: the Data Exchange Agreement, the CC0 waiver and the Europeana Data Use Guidelines. They are described below.

The DEA is the central element of the Europeana Licensing Framework. It structures the relationship of Europeana and its data providers. The DEA specifies how metadata and previews provided by data providers can be used by Europeana and third parties. It details the exchange whereby data providers get enriched metadata back, as well as access to other metadata of interest. It establishes rules for updating and deleting

metadata stored by Europeana and deals with issues such as liability and removal of data at the request of third parties.

The CC0 waiver is a legal tool that has been developed by Creative Commons (discussed in detail below) for making data available without restrictions on reuse. The DEA establishes that Europeana publishes metadata it receives from its data providers under the terms of CC0. This means that anyone can use the metadata published by Europeana for any purpose, without the need for attribution.

A link to the [Europeana Data Use Guidelines](#) accompanies metadata published by Europeana. These guidelines make best-practice requests to users of the metadata. They are non-binding but reflect the best practice of the Europeana community. The Data Use Guidelines deal with issues like attribution and data integrity.

There are also [special terms](#) developed for user-generated content. These terms apply to end users who contribute content to Europeana (usually as part of Community Collection projects, such as [Europeana 1914-1918](#)). These terms have been developed so that Europeana can use content provided by its users, and ensure that it can be integrated with other Europeana held data. User-generated content and its elements will be discussed further in the flowcharts section of this report.

All digital objects shared through Europeana.eu have a rights statement applied, which is a requirement in the ELF. The most up-to-date source of information about which rights statements are possible to use is the page on [Available Rights Statements on Europeana Professional](#). This page contains a controlled list of rights statements that can be applied to digital objects that are made available via Europeana. It contains statements for in-copyright works that cannot be reused, statements for marking public domain material and it also includes the six Creative Commons licenses that allow data providers to grant permission to the public to reuse in-copyright works under certain conditions.

Creative Commons licensed or marked material will most likely provide the most flexibility in reuse of data. The licenses are often misunderstood and misused, which is why they are explained in detail below.









### **Creative Commons legal tools**

Creative Commons licenses and tools offer creators a simple, standardised way to grant copyright permissions to their works. Licensors retain copyright while allowing others to copy, distribute, and make some uses of their work — at least non-commercially. A Creative Commons license can only be applied by the rights holder(s) of a work, or with explicit permission from the rightsholder(s). Creative Commons licenses ensure that licensors get the credit they deserve for their work. Licensees must credit the licensor, keep copyright notices intact on all copies of the work, and link to the license from copies of the work. Licensees also cannot use technological measures to restrict access to the work by others.

*Creative Commons licenses ensure that licensors get the credit they deserve for their work.*

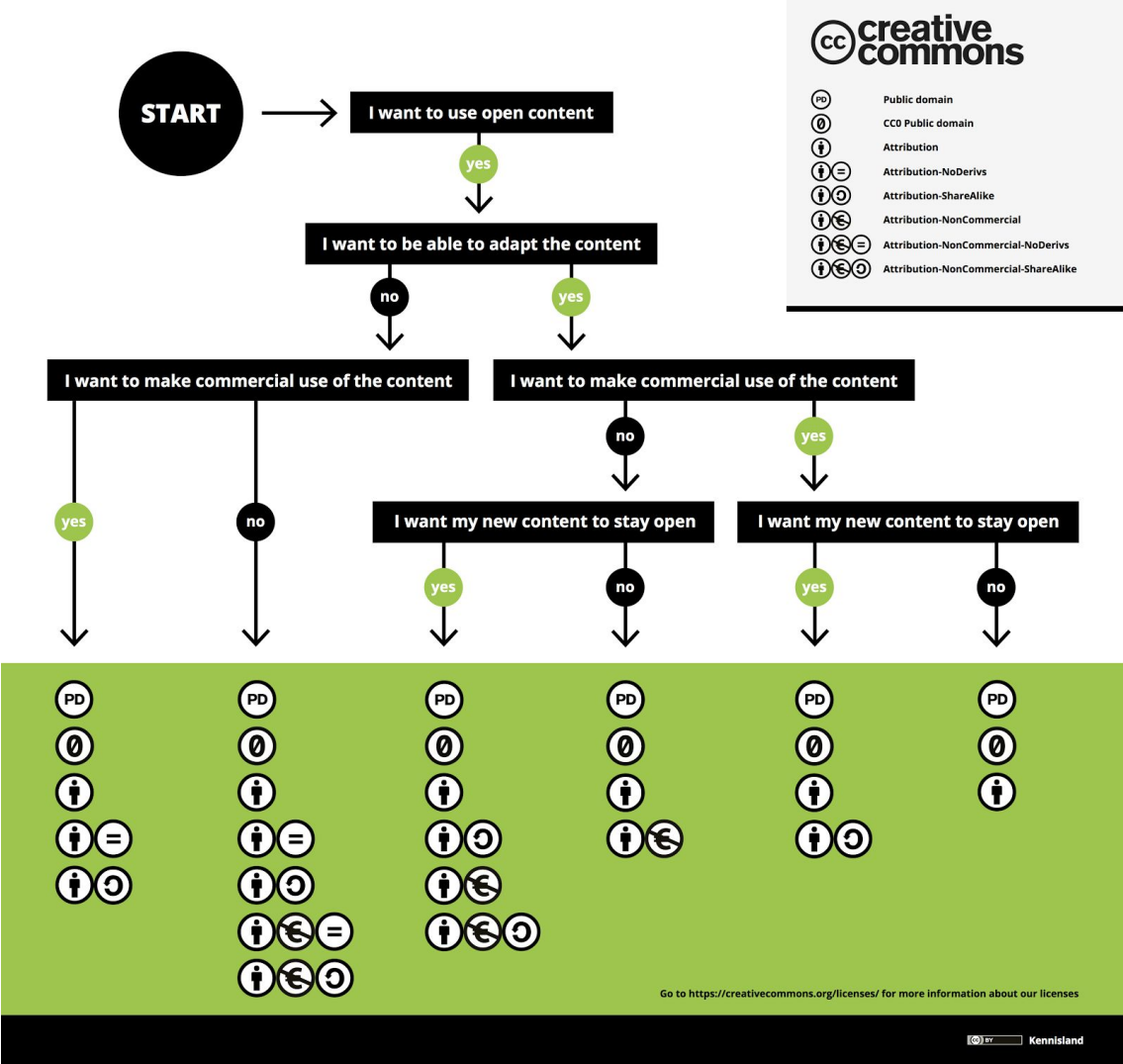


Creative Commons offers six licenses and two public domain tools. Only four of these are relevant for widespread (commercial) reuse. A complete overview of all tools and their requirements and limitations is offered below. The licenses help authors to keep and manage their copyright on terms they choose. The public domain tools (CC0 and PDM) on the other hand, enable authors and copyright owners who want to dedicate their works to the worldwide public domain to do so, and facilitate the labelling and discovery of works that are already free of known copyright restrictions.

Logo	Description
	<p><b>Attribution (CC BY):</b> The most accommodating of licenses offered. It is recommended for ease of use and has very few requirements. This license lets others distribute, remix, tweak, and build upon licensed work, even commercially, as long as you credit the original creator(s) for their work.</p>
	<p><b>Attribution-ShareAlike (CC BY-SA):</b> Often called a copyleft license. It is recommended if your product allows reuse of offered material. The license lets others remix, tweak, and build upon the licensed work even for commercial purposes, as long as you credit the creator(s) and license new creations under the identical terms.</p>
	<p><b>Attribution-NoDerivatives (CC BY-ND):</b> A license that does not allow you to make derivatives works like crops or lower quality versions. This license allows for redistribution, commercial and non-commercial, as long as it is passed along unchanged and in whole, with credit to the creator.</p>
	<p><b>Attribution-NonCommercial (CC BY-NC):</b> The simplest non commercial license. This license lets others remix, tweak, and build upon licensed work non-commercially, new works must also acknowledge the creator and be non-commercial, derivative works do not have to be licensed under these terms.</p>
	<p><b>Attribution-NonCommercial-ShareAlike (CC BY-NC-SA):</b> Lets others remix, tweak, and build upon work non-commercially, as long as the creator is credited and derivatives are licensed under identical terms.</p>
	<p><b>Attribution-NonCommercial-NoDerivs (CC BY-NC-ND):</b> The most restrictive of the six licenses, it only allows downloading of works and share them with others as long as the creator is credited, derivatives are not allowed and commercial use is not permitted.</p>
	<p><b>Creative Commons Zero Public Domain Dedication (CC0):</b> Allows licensors to waive all rights and place a work in the public domain.</p>
	<p><b>Public Domain Mark (PDM):</b> Allows institutions to mark works that have been identified as free of known copyright restrictions.</p>

The image below guides you through the needs you might have in using works that are marked with one of Creative Commons legal tools:

**I want to use open content but I am not sure which licenses suit my purpose.**



When using material that has been licensed or marked using Creative Commons tools, it is possible to mix content to create derivative works. It is important to take license compatibility into account, however. Below a diagram on how the different licenses and tools can be mixed (or not).

	PUBLIC DOMAIN	PUBLIC DOMAIN	BY	BY SA	BY NC	BY ND	BY NC SA	BY NC ND
PUBLIC DOMAIN	✓	✓	✓	✓	✓	✗	✓	✗
PUBLIC DOMAIN	✓	✓	✓	✓	✓	✗	✓	✗
BY	✓	✓	✓	✓	✓	✗	✓	✗
BY SA	✓	✓	✓	✓	✗	✗	✗	✗
BY NC	✓	✓	✓	✗	✓	✗	✓	✗
BY ND	✗	✗	✗	✗	✗	✗	✗	✗
BY NC SA	✓	✓	✓	✗	✓	✗	✓	✗
BY NC ND	✗	✗	✗	✗	✗	✗	✗	✗

As you can see it is possible to mix the more open licenses easier than the licenses with a 'NC' or 'ND' building block. It is advised to work with the Free Culture licenses as much as possible, which are CC BY (only attribution) and CC BY-SA (attribution, share alike). Naturally public domain material can always be mixed, as well as content where all rights have been waived using CC0.

All Creative Commons licenses have an attribution requirement in common.<sup>2</sup> This means that it is mandatory to properly attribute all Creative Commons licensed works you use in your product or publication. These requirements include that you acknowledge the creator, the title of the work, the license and link to the license. You also need to add any modification or alteration to the work and link to a source if applicable. Acknowledging the creator and title of the work are part of inalienable moral rights that a creator has. Often you see that publishers are attributed instead of the creator. This is not necessary according to the license. It is the creator that you need to attribute, not the publisher or distributor. Mentioning the license, a link to the license, modifications of the work and link to the source are elements of the Creative Commons licenses.

In offline publication contexts it is impossible to provide an active link to the license, in these contexts you will need to write out the full link to the license. When you create a document or product that can reasonably be downloaded you will need to add this fully written out link as well, as we have done at the end of this document. Only placing the licensing symbols that are introduced above are not sufficient to properly license or reuse material that has been made available with Creative Commons licensing.

<sup>2</sup> The exception to this are CC0 and the Public Domain Mark. These two legal tools are not licenses per se and formally do not require attribution.



Crop of "[Indian streetseller hands displaying green chickpeas](#)" by Jorge Royan is licensed under CC BY-SA. Go to <https://creativecommons.org/licenses/by-sa/3.0/> to read the full license text.

The above example shows proper attribution of a photo found on Wikimedia Commons. It shows that this is a crop of a photo, it shows the title, creator and license. Because of the possibility that this document is used in printed form the license URL is written in full.

Aesthetically it can be a burden to properly attribute open material in your publications and products. You do not have to place the licensing information on the same page. You can be creative while attributing the work that you are reusing.<sup>3</sup> In other types of media you can use the conventional places for attributions: a bibliography in a book, credits after a movie, or the colophon of a report.

Keep in mind that you are required to provide proper attribution, failing to do so terminates the license. This means that you no longer have permission to use that file, you are infringing the copyright of the licensor, which can lead to legal problems.

The use of the open licenses and proper attribution is also reflected in the outcomes of the Content Reuse Framework.

### **Content Reuse Framework**

Europeana's Content Reuse Framework (CRF) is a search functionality of the Europeana API. It allows the user to specify certain requirements necessary for successful implementation of cultural heritage in (commercially) viable products, such as those specified in the Europeana Food and Drink project.

The framework is available as a beta to the general public and is expected to be fully functional by September 2015.

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<sup>3</sup> Kennisland's website, for example, uses information bubbles to present this information. See : <https://www.kl.nl/en/themas/copyright/> (as retrieved in May 2015)

The service allows API calls to determine the size of images (small, medium, large and extra large), the aspect ratio of images, the general colors of images, the quality and duration (very short, short, medium, long) of audio and video.

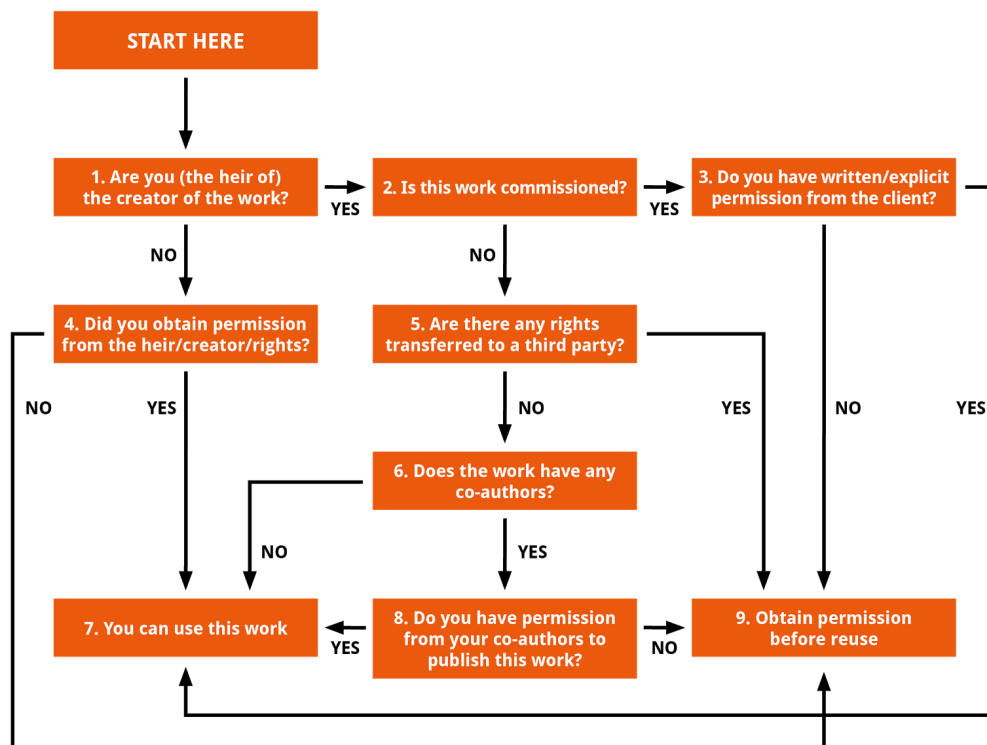
For more information on the CRF, please refer to the Europeana Creative deliverable 3.3

This section provided context of the legal framework in place, as well as the guidelines and framework Europeana uses to manage rights issues on the platform and beyond. In the following section three flowcharts are presented to guide users through questions that need to be taken into consideration when data is used, for example in the Europeana Food and Drink products.

### Ensuring ownership of content

Whenever you use or ingest content from third parties or individual contributors you need to make sure you have permission to reuse that material. In the case of user-contributed content this means that you also need to educate your users on how permission can be given and whether the contributing party is allowed to give you permission.

The chart below shows how you can make sure that you will get permission from the proper rights owner.



1. The creator of every original creation has a monopoly to control the initial communication of the creation to the public and can grant permission for every reuse.
2. If you are the creator of the work it is important to understand there are exceptions to your ownership. For example, if the work is commissioned or

creator for your employer. These rules vary per jurisdiction. Rights ownership over a creative work does not always belong to the creator.

3. If the work is commissioned or if you have transferred part of your copyrights to a third party, you need to get permission before you can offer the work to be reused by others. Note, agreements with third parties are not always exclusive. It is not always necessary to obtain permission from that party directly. Universal permission can be given through Creative Commons licenses for example.
4. You need permission of the rights holder before sharing a work for reuse if you yourself are not the creator/heir/rights holder.
5. You need to get permission before you can offer the work to be reused by others if rights have been transferred to third parties. Note, agreements with third parties are not always exclusive. It is not always necessary to obtain permission from that party directly (the work can for example be licensed under a Creative Commons license).
6. Even though rights have not been transferred to third parties you might not be the only rights owner of a work. In certain jurisdictions works of co-authorship get different protection and have different rules for reuse.
7. You can only share your work when you are the sole creator of an original work and you have not (yet) made agreements with third parties regarding their (exclusive) rights to you work.
8. You will have to ask all co-authors for permission to before you can reuse a work.
9. You can only share your work when you are the sole creator of an original work and you have not (yet) made agreements with third parties regarding their (exclusive) rights to you work.

### **Publishing OER**

Creating (digital) learning resources that can easily be used by schools across Europe can be very challenging. Open Educational Resources (OER) are digital learning resources that everyone can build upon, which are even harder to create. Successful OER take into account the IPR issues during creation of the resource as well as design for maximum reuse. The easiest way to ensure that all these issues are considered is to follow the OER method of the Hewlett Foundation<sup>4</sup> creating materials:

“OER are teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that permits their free use and re-purposing by others. Open educational resources include full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge.”

In practice this means that all materials should be released under a CC BY (attribution) or CC BY-SA (attribution, share-alike) license. The resources can also be shared using the CC0 public domain dedication. With CC0 you remove the requirement for attribution.

It often occurs that creators of learning materials instinctively apply a CC BY-NC (attribution, non-commercial) license on the material. However, that is not advisable. There is no proper (legal) definition for what ‘commercial’ means, which leads to

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<sup>4</sup> Hewlett Foundation website: <http://www.hewlett.org/programs/education/open-educational-resources> (viewed on May 28th 2015).



confusion in the reuse of OER. Also, different education systems in Europe have different means of financing, and the NC limitation in the license could imply that only completely state-funded schools can reuse the created resource. This would severely limit the reuse of the materials created in the Europeana Food and Drink project. Therefore, CC0, CC BY and CC BY-SA are the only appropriate licenses.

When the learning materials consist of other elements than those specifically created for the resource, such as use of existing photographs or other (cultural heritage) objects, it is necessary to have permission to use the materials. It is also advised to get permission for the users of the learning materials (teachers) to reuse the materials. This means using materials that are either in the public domain, have been dedicated to the public domain using CC0, or licensed under CC BY or CC BY-SA. This ensures that teachers are allowed to use the materials in the classroom, and also adapt to local situations (such as translate materials, or change assignments to local customs).

Please note that this is also the case for cultural heritage objects used by the institution that holds the object. The teacher is the user of the object, and therefore needs permission for reuse. Merely providing access to it in OER is not sufficient.

The attribution rules set out in the section 'proper attribution' on page 11 also apply for use in teaching materials. As OER are often compositions of different works, attribution can become complicated. An often used method is to state at the beginning of the resource what the general applicable license is, and then provide specific attribution per resource. This can be done either on each specific page (or presentation slide) or in a bibliography at the end of each resource.

Example of preamble statement:

"Unless otherwise noted, everything in this resource is made available under a Creative Commons Attribution 4.0 license. You can read the full license here: <https://creativecommons.org/licenses/by/4.0/>. Please consider the following method of attribution when using the material:

Europeana Food and Drink, Cultural overlap in cookie cuisine (2015), [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/).

In case of offline use of the material, include the URL of the license in the attribution:

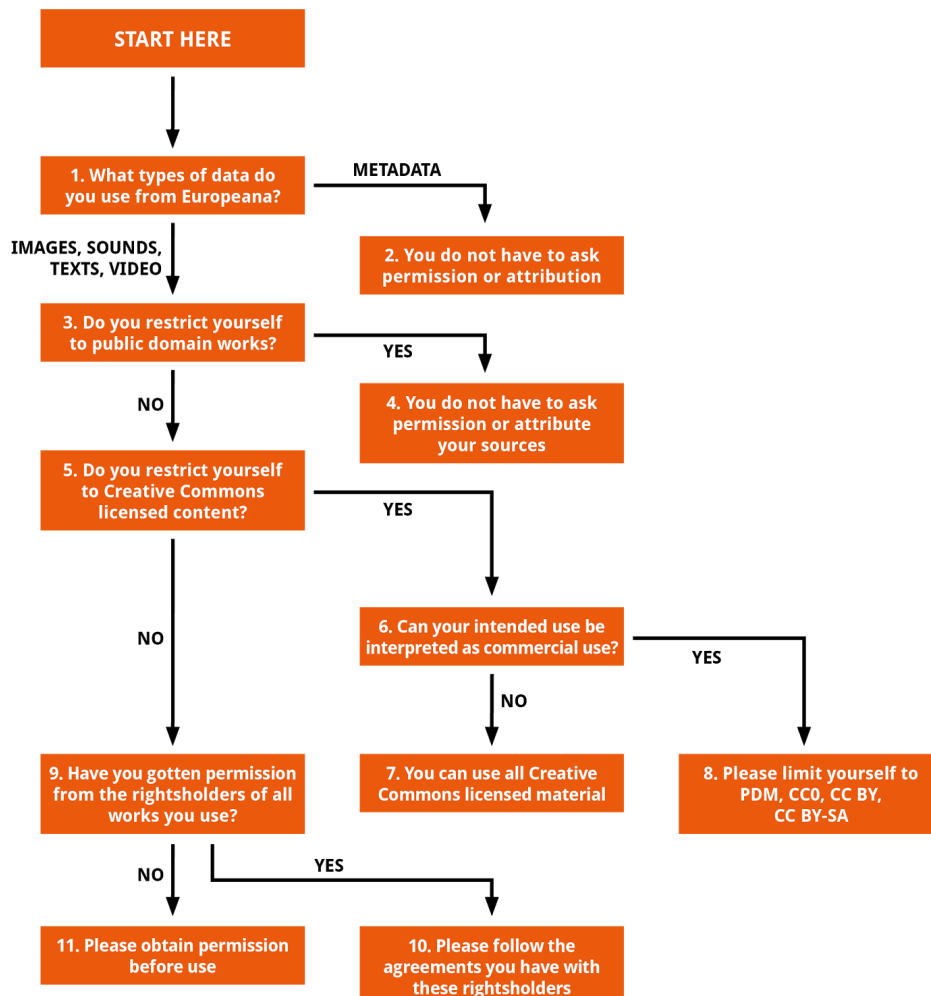
Europeana Food and Drink, Cultural overlap in cookie cuisine (2015), <https://creativecommons.org/licenses/by/4.0/>."

## IPR Guides

When reusing digital cultural objects it is important to follow IPR restrictions on these objects. Failing to comply with the licensing and obtained permissions means that you are infringing the rights of the rights holder. This can cause you legal difficulties. Below we have made a couple of easy-to-navigate flowcharts that guide you through questions regarding IPR and licensing.

## Working with digital cultural heritage retrieved from Europeana

When you are using data retrieved from Europeana, please be aware of its licensing structure. Follow the following flowchart and read the provided additional instruction per question below.



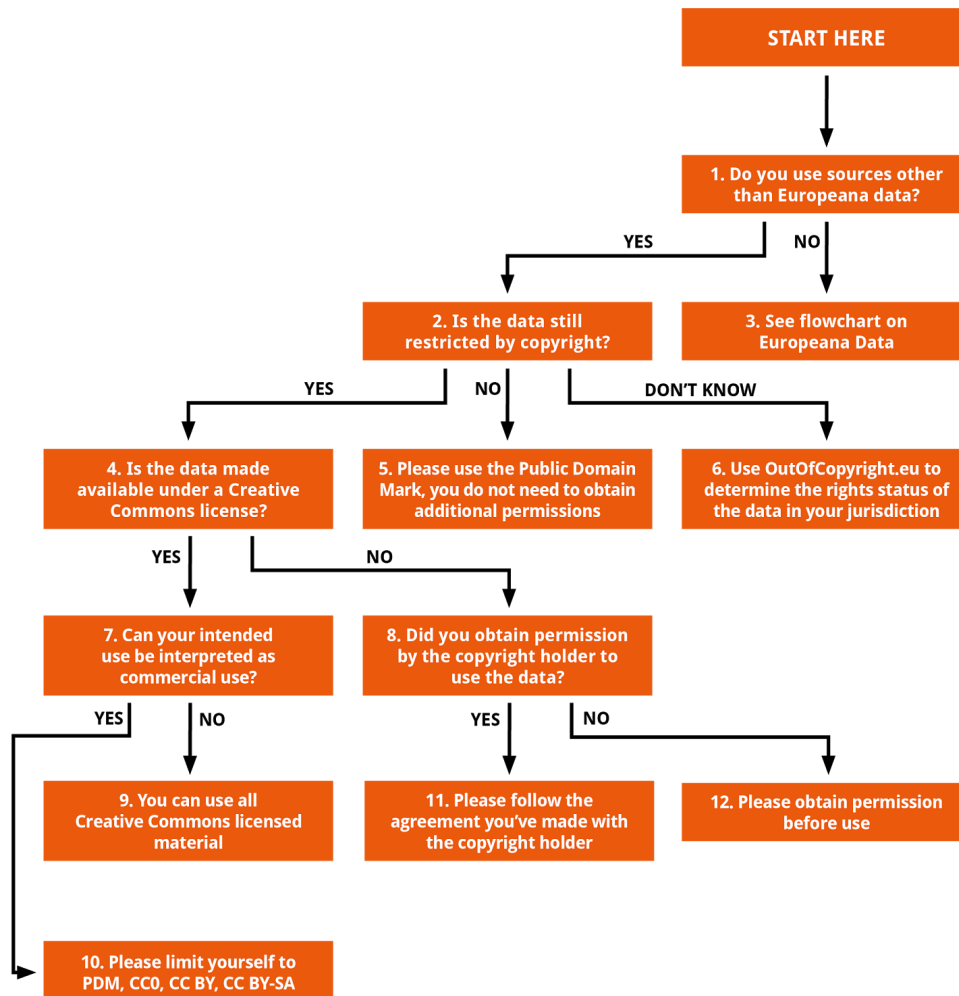
1. Europeana offers both descriptive information (metadata) via its APIs, as well as links to media files like images, audio, texts, and video (content). If you are only using this descriptive information please choose metadata.
2. Europeana's metadata is shared using CC0. CC0 permits you to further distribute the data, also for commercial purposes, without having to mention Europeana and its dataprovider as the source of the information. However, please follow the Europeana Data Use Guidelines.
3. Public domain works in Europeana are marked with the Creative Commons Public Domain Mark (PDM). Please choose 'yes' when you limit yourself to objects that are marked with this rights statement.



4. A digital object enters the public domain when copyright restrictions have expired. This means that you do not have to ask permission to reuse and object, you also do not have attribute the creator for her work. However, please follow the [Europeana Data Use Guidelines](#) and attribute your sources.
5. Please choose 'yes' when you limit yourselves to objects that are marked with a Creative Commons rights statement.
6. Creative Commons does not have a formal definition of a commercial use. However, if the company exploiting the product is a commercial company or when products drive indirect revenues (e.g. by attracting customers) then please choose 'yes' here. Otherwise, choose 'no'.
7. If your intended use is not for commercial purposes you are allowed to use all Creative Commons licenses. However, be aware that you do need to conform to the restrictions of the applied license. For example, you may not be allowed to create derivative works.
8. Only a set number of Creative Commons legal tools is available for commercial reuse. Please restrict the ingestion of data.
9. When you are not using one of the Creative Commons rights statements in Europeana data you will need to obtain permission from the rights owners of that data. Choose 'yes' if you already have such an agreement.
10. Rights holders can create their own agreement with you. Please follow the usage rules set out in that agreement.
11. If you do not have permission for the Europeana data and this data is not licensed under a Creative Commons license, or marked with the Creative Commons Public Domain Mark, you cannot use this data.

## Working with external sources

When working with data not processed through Europeana and its licensing structure, please be aware of copyright restrictions and licenses that need to be taken into account.



1. If you use data in your product other than data retrieved from Europeana or its APIs please choose 'yes' here.
2. The copyright status of a work is important to determine whether you need to retrieve permissions for reuse.
3. This flowchart does not apply to your product. Please see the section 'Working with digital cultural heritage retrieved from Europeana' (p. 16) for more information.
4. Please choose 'yes' when the data you use objects that are shared under a Creative Commons license.
5. A digital object enters the public domain when copyright restrictions have expired. This means that you do not have to ask permission to reuse an object, you neither have to attribute the creator. However, please follow the Europeana Data Use Guidelines and attribute your sources.
6. The general rule of thumb is that all works published before 1860 are in the public domain. Everything published after 1945 is most likely still restricted by

copyright. To make sure if the data you use is in the public domain, please check OutOfCopyright.eu.

7. Creative Commons does not have a formal definition of a commercial use. However, if the company exploiting the product is a commercial company or when products drive indirect revenues (e.g. by attracting customers) then please choose 'yes' here. Otherwise, choose 'no'.
8. When data is not openly licensed you need to get permission from the rights holder before you can use the data. Please answer 'yes' if you have done so.
9. If your intended use is not for commercial purposes you are allowed to use all Creative Commons licenses. However, be aware that you do need to conform to the restrictions of the applied license. For example, you may not be allowed to create derivative works.
10. Only a set number of Creative Commons legal tools is available for commercial reuse. Please restrict the ingestion of data.
11. Rights holders can create their own agreement with you. Please follow the usage rules set out in that agreement.
12. If you do not have permission for the data and this data is not licensed under a Creative Commons license, or marked with the Creative Commons Public Domain Mark, you cannot use this data. Please obtain permission before you continue.

### Working with user-generated content

This section differs slightly from the two above. While the flowcharts 'working with digital cultural heritage retrieved from Europeana' and 'working with external sources' assume that the products use existing data published either through Europeana or other platforms, this one discusses the issue of either data generated by users based on the product (i.e. adding geodata), or existing data that end users add but are not part of the a collection of a cultural heritage institution (such as photographs of historical events).



When users add data it is important to ask for the necessary permissions for reuse, and to make sure users are aware of the permissions they give when using the product. For example, if an app is created following a certain historic route in the Dutch countryside,

and users are encouraged to add comments and photos of their walking experience, as an app builder you want to have permission to use those photos to enrich the information on the route. Even more so, you might want permission to add the photograph in the collection of the cultural heritage institutions, or use it in another online context.

Europeana has experienced this issue within the Europeana 1914-1918 project where citizens were encouraged to bring own historical artefacts to collection days. In light of this project the user-generated content guidelines were developed. These best practice guidelines state that added metadata must be licensed under [CC0](#) (like all Europeana metadata) and data that can be described as content needs to be licensed under the [Creative Commons BY-SA](#) license. It is legally necessary for users to check a box before they can agree to such terms, and such a system therefore needs to be implemented in the products.

1. User-contributed/-generated data is either added by users of your product or ingested from a third-party platform.
2. Please create a terms of use agreement for your users. This needs to contain a licensing agreement for metadata and content, and assurances that the users have permission to contribute to your product by either being the rights owner or having permission to do so.
3. If Europeana is the source of your user-generated/-contributed content, then we are certain of its permissions of reuse.
4. Europeana guidelines for user-generated/-contributed content are clear. They fit the rules of the Europeana licensing framework. Please see the section on 'Working with digital cultural heritage retrieved from Europeana' on page 16.
5. Each data source can provide its own agreements and licenses. Please read the agreement that you have made with your data source carefully and follow its rules.

# Licence & Contact

The information and recommendations above are based on our experiences in working with cultural heritage institutions. Kennisland is aware that every situation is unique and has specific challenges. We emphasise the introductory and general character of the presented information.

Kennisland is not a law firm, this document is not legal advice.

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