

Principle: Open by default; open by design

Version: 0.2

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Openness is the core value for the Commons. It is intentionally and reflexively open and entirely free to use, read, reuse, and remix by humans and machines, unless there is a compelling reason to restrict access, e.g., personal health information. Scholarly commoning starts with openness as a norm, and supports activities that explore open scholarship fully. Sharing is the main activity in the Commons.

As with all Scholarly Commons activities, we have sought to build upon existing standards and community initiatives that have already been reviewed by experts and refined by practitioners. By pulling them together within this document, we are looking to compile a whole picture that is greater than the sum of its parts, that is, to enable activities within the commons to be generated, shared and re-used as seamlessly as possible.

Discussion

The Commons uses standards and guidelines developed by the community (e.g., [OKFN Open Definition](#), [Budapest Open Access Initiative](#) guidelines, and the [Open Source Initiative definition](#)) to inform its core definition of open content and access.

Openness includes:

- outcomes from the Commons, and so it will be reinforced through the use of licenses that support the sharing of outcomes, such as knowledge gained by mining the Commons, research undertaken using Commons resources, and software derived for Commons code. The Commons will support a variety of open licenses. In their daily practice, commoners heed the requirements of these licenses and add their own content through them.
- promoting machine access to resources and metadata.
- the right to deposit as well as to access, read, analyze, cite, quote, and mine.

Where privacy is important to protect the rights of data providers or subjects, the Commons will select a best-practice method of securing these data.

Operationalization

Content, standards, procedures, protocols, software and hardware descriptions are free to use and reuse by humans and machines, with health, privacy and certain safety/security issues as allowable exceptions. This necessitates a radical rethink by stakeholders in their relationship with research assets produced by 'their' researchers, using 'their' funding, published within 'their' publications. The openness of the commons allows the development of external services that can be more closed, proprietary, or involve ranking and selection: e.g. aggregation and indexing services, as long as they do not devalue the commons.

- 1) The **work** *must* be in the **public domain** or provided under an open **license** (as defined in Section 2). Any additional terms accompanying the work (such as a terms of use, or patents held by the licensor) *must not* contradict the work's public domain status or terms of the license. ([OKFN Open Definition](#))
- 2) The **work** *must* be provided as a whole ~~and at no more than a reasonable one-time reproduction cost, and should be downloadable via the Internet without charge.~~ Any additional information necessary for license compliance (such as names of contributors required for compliance with attribution requirements) *must* also accompany the work. ([OKFN Open Definition](#))
- 3) OR: To facilitate data integration and open access data sharing, any implementation of this protocol **MUST** waive all rights necessary for data extraction and re-use (including copyright, sui generis database rights, claims of unfair competition, implied contracts, and other legal rights), and **MUST NOT** apply any obligations on the user of the data or database such as "copyleft" or "share alike", or even the legal requirement to provide attribution. Any implementation **SHOULD** define a non-legally binding set of citation norms in clear, lay-readable language. Principle 4.1, [Science Commons Protocol for Implementing Open Access Data](#)
- 4) Requesting behavior, such as citation, through norms rather than as a legal requirement based on copyright or contracts, allows for different scientific disciplines to develop different norms for citation. This allows for legal certainty without constraining one community to the norms of another.-Principle 4.1, [Science Commons Protocol for Implementing Open Access Data](#). The **work** *must* be provided in an open format and provide an open API. An open format is one which places no restrictions, monetary or otherwise, upon its use and can be fully processed with at least one free/libre/open-source software tool. ([OKFN Open Definition](#))
- 5) Open access should not compromise the confidentiality of research subjects, and will comply with principles of data security defined by HIPAA, FERPA, and other privacy guidelines.-[Denton Principle](#) #13
- 6) Community standards, rather than copyright law, will provide the mechanism for enforcement of proper attribution and responsible use of the published work, as they do now.-[Bethesda Statement on Open Access Publishing](#), 2003

- 7) Legal tools for an open access data sharing protocol must be developed with three key principles in mind: 3.1 The protocol must promote legal predictability and certainty; 3.2 The protocol must be easy to use and understand; 3.3 The protocol must impose the lowest possible transaction costs on users. - Principle 3 of [Science commons Protocol for Implementing Open Access Data](#)
- 8) Attribution stacking: ...there is a problem of cascading attribution if attribution is required as part of a license approach. In a world of database integration and federation, attribution can easily cascade into a burden for scientists if a category error is made. Would a scientist need to attribute 40,000 data depositors in the event of a query across 40,000 data sets? How does this relate to the evolved norms of citation within a discipline, and does the attribution requirement indeed conflict with accepted norms in some disciplines? Indeed, failing to give attribution to all 40,000 sources could be the basis for a copyright infringement suit at worst, and at best, imposes a significant transaction cost on the scientist using the data. Therefore, a legal obligation to give attribution violates the principle of low transaction costs.-Principle 5.3 of [Science commons Protocol for Implementing Open Access Data](#)

Mappings

1. "Open access contributions must satisfy two conditions: The author(s) and right holder(s) of such contributions grant(s) to all users a free, irrevocable, worldwide, right of access to, and a license to copy, use, distribute, transmit and display the work publicly and to make and distribute derivative works, in any digital medium for any responsible purpose, subject to proper attribution of authorship (community standards, will continue to provide the mechanism for enforcement of proper attribution and responsible use of the published work, as they do now), as well as the right to make small numbers of printed copies for their personal use."-[Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities](#), 2003.
2. Definition of Open Access: "A complete version of the work and all supplemental materials, including a copy of the permission as stated above, in an appropriate standard electronic format is deposited (and thus published) in at least one online repository using suitable technical standards (such as the Open Archive definitions) that is supported and maintained by an academic institution, scholarly society, government agency, or other well-established organization that seeks to enable open access, unrestricted distribution, inter operability, and long-term archiving."-[Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities](#), 2003.
3. "The author(s) and copyright holder(s) grant(s) to all users a free, irrevocable, worldwide, perpetual right of access to, and a license to copy, use, distribute, transmit and display the work publicly and to make and distribute derivative works, in any digital medium for any responsible purpose, subject to proper attribution of authorship[2], as well as the

right to make small numbers of printed copies for their personal use.-[Bethesda Statement on Open Access Publishing](#), 2003

4. Open access is a property of individual works, not necessarily journals or publishers. -[Bethesda Statement on Open Access Publishing](#), 2003.
5. Community standards, rather than copyright law, will continue to provide the mechanism for enforcement of proper attribution and responsible use of the published work, as they do now. -[Bethesda Statement on Open Access Publishing](#), 2003
6. The principles of open access should not be in conflict with the intellectual property rights of researchers, and a culture of citation and acknowledgement should be cultivated rigorously and conscientiously among all practitioners. [Denton Principle](#) #12:
7. See the [Hague Declaration on Knowledge Discovery in the Digital Age](#), for operationalization around content mining
8. There are sound reasons why the openness of research data may need to be restricted but any restrictions must be justified and justifiable. Principle 5, [Concordat on Open Research Data](#), V 10, Research Council UK
9. A fundamentally new approach towards optimal reuse of research data. Data sharing and stewardship is the default approach for all publicly funded research. This requires definitions, standards and infrastructures. [Amsterdam Call to Action on Open Science](#), Action Item #2

Discussion Points

- Does this and other other principles concerning openness presuppose specific types of licences? E.g. CC-0? CC-BY? Is CC-BY-NC or CC-BY-ND a non-commons license
 - Must core infrastructure for the commons, e.g., identifier systems, always be the equivalent of CC0?
 - **Do we hand the ability to declare what software licenses are valid to the OSI? (since CC licenses are not appropriate for software)**
- Do the conditions laid out by the [Open Definition](#) for acceptable licenses still hold? See also the [Panton Principles](#). See also the OKFN definition vs Science commons. Should attribution be via norms or license?
- Does principle #2 from the [Hague Declaration apply to the commons](#): **“2. PEOPLE SHOULD HAVE THE FREEDOM TO ANALYSE AND PURSUE INTELLECTUAL CURIOSITY WITHOUT FEAR OF MONITORING OR REPERCUSSIONS:** Providers of content should respect the intellectual privacy of individual readers and should take measures to protect readers’ privacy from interference by any external body. Any exception, which for example would result in an encroachment of individual privacy, will need to be necessary and proportionate and provided for by law. The use of facts, data and ideas must not prejudice the legitimate rights of individuals to privacy and a private life.”

References