

**The Intellectual Property of Public Records
HK Foresight Centre & HKIPD, 17, Jan. 2011**

**Copyright, Fair Use, Public
Licences and Open Access**

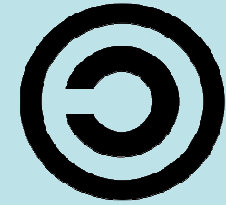
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The background features a light blue gradient with several overlapping, semi-transparent light green rectangular shapes. A large, faint watermark of the Creative Commons license logo is centered behind the text. The entire composition is framed by a decorative border consisting of light blue and light orange segments.

Public Licences: Creative Commons



Copyright v. Copyleft

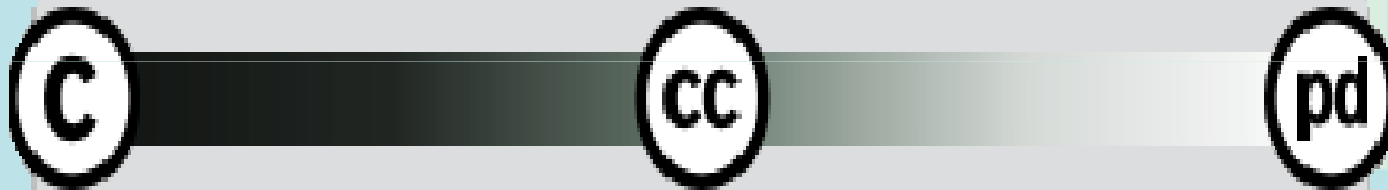


- Copyleft:
 - Licensing scheme allowing other people to reproduce, adapt or distribute a copyrighted work, and requiring that the author of a derived work only distribute such works under the same or equivalent licence.
- GNU General Public Licence:
 - Licence of Free Software Foundation
 - Freedom to use, to study, to copy and share, to modify and distribute the work.
 - Future works are bound by the same licence.



- What is CC?

- “all right reserved” v. “some rights reserved”



- “share, Remix, Reuse – Legally”

- “free licences that signaled to the world the freedoms an author intends his work to carry.”

(Lessig)



- What problem CC tries to solve?
 - “offer a technology to make it easy to say what rights were reserved, and what rights were not.” → “digital rights expression” (Lessig)
- Licences
 - Attribution (by)
 - Attribution Share Alike (by-sa)
 - Attribution No Derivative Works (by-nd)
 - Attribution Non-Commercial (by-nc)
 - Attribution Non-Commercial Share Alike (by-nc-sa)
 - Attribution Non-Commercial No Derivatives (by-nc-nd)



- Licence deed and legal code
- Who are using CC?
 - Governments
 - White House; Parliament of Australia
 - Educational institutes
 - MIT OpenCourseWare
 - Creative industries
 - Wikipedia (switched from GNU to CC)
- Fair use?
 - s. 2 of all licences: “CC licences do not modify or restrict fair use”.



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- CCHK
- Localization of the CC licences: legal issues:
 - Derivative works v. adaptation
 - Fair use v. fair dealing
 - First sale
 - Voluntary licensing v. compulsory licensing
 - Moral rights
 - Distribution, reproduction and public performance
- Launching of the project



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- Development of the project
 - By Oct. 2010, 403,977 internet works used [cchk licences](#)
 - Liberal studies creative archive: [RTHK](#), Asia Weekly, Readers' Digest,
 - Users of HKCC: [ICAC Moral Education Web](#); [InMediaHK](#) ; Open [Radio](#) Hong Kong (ORHK) ; [MySinaBlog](#) ; [Snoblind](#) ; CCmixter ; Magnatune; [Foncept](#) ; Deviant Art ; Flickr; A [Map](#) of Our Own: Kwun Tong Culture and Histories ; Hong Kong Stories; RTHK ; hk3teachers; philosophy; [PSMSAR](#)



Open (Public) Access to Information and Knowledge

Public-funded research data/database

- Data protection: copyright and/or *sui generis* protection
 - e.g. EC Database Protection Directive 1996
- But some of the data/database are created by public fund
 - “If the taxpayers funded the research on the front end, why should they be subjected to the sky-high journal subscription prices necessary to read the research when it is published?”
 - Stake of the scientific, technical and medical journal publishing industry.

The NIH Public Access Policy 2008

- Every paper accepted for publication are required to be deposited into PubMed Central (PMC) from April 7, 2008.
- Debates:
 - All NIH research grants are conditional on compliance with the public access policy.
 - Does this constitute an involuntary transfer of IPRs, which is prohibited by copyright law?
- The Fair Copyright in Research Works Act (H.R. 801) 2008
 - Seeks to prohibit mandatory public access policies like NIH policy.
 - It was reintroduced in Feb. 2009

OECD Principles and Guidelines for Access to Research Data from Public Funding, 2007

- “Data access arrangements should consider the applicability of copyright or of other IP laws that may be relevant to publicly funded research databases.”
- Factors to consider:
 - “Private sector involvement in the data collection should not, in itself, be used as a reason to restrict access to the data. Consideration should be given to measures that promote non-commercial access and use while protecting commercial interests, such as delayed or partial release of such data, or the voluntary adoption of licensing mechanisms.”
 - “In those jurisdictions in which government research data and information are protected by IPRs, the holders of these rights should nevertheless facilitate access to such data particularly for public research or other public-interest purpose.”

Open government licence

- [Data.gov.uk](https://data.gov.uk)
 - “The Government is releasing public data to help people understand how government works and how policies are made. Some of this data is already available, but data.gov.uk brings it together in one searchable website. Making this data easily available means it will be easier for people to make decisions and suggestions about government policies based on detailed information.”

Free Access to Law

- [Free access to law movement](#)
 - [Declaration on Free Access to Law \(2002\)](#)
- AustLII [copyright](#) policy
- HK [Bilingual Laws Information System](#)
 - Copyright belong to HK government
 - Allowed for non-commercial and educational use
 - Other uses must get HK government special permission
 - Framing and linking allowed with proper attributions
- [HKLII](#)

Open government and open society in Hong Kong?

- [GovHK 香港政府一站通](#)
- [Heritage Museum](#)
- [Hong Kong Education City](#)