

Data Supplement to “What status for ‘open’?”

A graphical view of the licensing policies of open educational organizations and projects

Version 1.0
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One in a series of supplemental documents based on the 15 Dec 2008 report:



What status for “open”?

An examination of the licensing policies of open educational organizations and projects

<http://learn.creativecommons.org/cclearn-reports>



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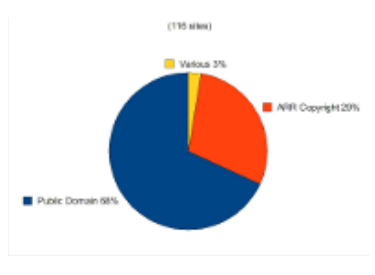
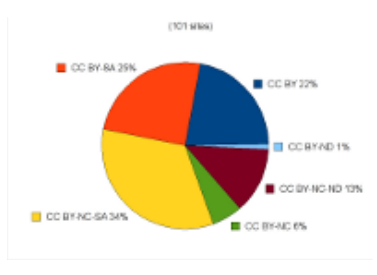
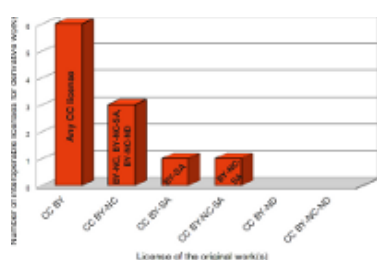
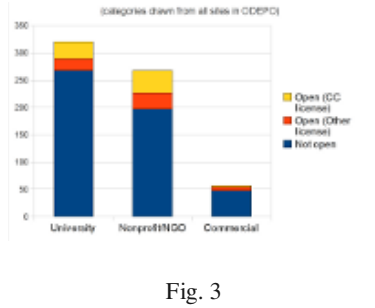
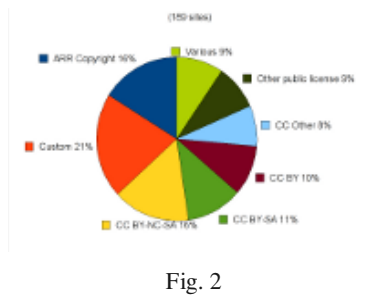
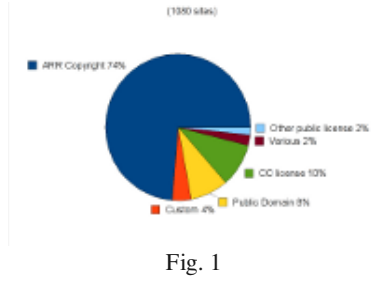


Fig. 6

Fig. 5

Fig. 4

About this supplement

This supplement provides graphical representations and analyses of data relevant to “What status for 'open'? An examination of the licensing policies of open educational organizations and projects,” ccLearn's report to the The William and Flora Hewlett Foundation. These data are available publicly in the ccLearn-hosted Open Database of Educational Projects and Organizations (ODEPO).¹

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ccLearn thanks the William and Flora Hewlett Foundation for their generous support of this research and activities to follow.

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<http://flickr.com/photos/96556635@N00/458726766/>

¹ <http://opened.creativecommons.org/ODEPO>

Introduction

Note: The text for this section was adapted from the executive summary of the ccLearn report entitled, “What status for 'open'? An examination of the licensing policies of open educational organizations and projects,” as well as from explanations found on the OpenEd site. The original text can be found at the following URLs:

http://opened.creativecommons.org/ODEPO_FAQ

http://opened.creativecommons.org/Property:License_short_name

<http://learn.creativecommons.org/what-status-for-open-html>

The World Wide Web is home to a wide array of educational resources, such as course materials, reference works, lesson plans, slide shows, instructional videos, historic photographs, scientific demonstrations, and the like. Some providers make a point of designating their resources as “open” or “free” resources, and some specifically designate these as “open educational resources” (OERs), a term adopted by UNESCO to describe digitized educational materials offered freely and openly online. Indeed a global movement has grown up around these resources as crucial components of open education.

But what makes an educational resource “open”? Is it enough that resources are available on the World Wide Web free of charge, or does openness require something more? These questions have become more urgent as the open education movement has gained momentum and as potential users of OERs increasingly face uncertainty about whether permission is required when they translate, reuse, adapt, or simply republish the resources they find.

With the support of the William and Flora Hewlett Foundation, ccLearn surveyed the copyright licensing policies of several hundred educational projects and organizations on the Internet to assess whether these legal conditions limit the usefulness of self-designated open resources from the user’s perspective. We aggregated the data gathered in this effort into a public resource called the Open Database of Educational Projects and Organizations, or ODEPO.² This database also serves to enable networking among individuals and organizations involved in education, particularly those creating and disseminating open educational resources.

ODEPO is implemented in a semantic wiki format which provides an interactive public archive of potential projects, programs, and organizations involved in the online delivery of educational materials. Its wiki format means that, if they choose to, websites and organizations in ODEPO can curate their own entries, or add information about any other organizations they may be aware of. Additionally, organizations have the ability to

² <http://opened.creativecommons.org/ODEPO>

ensure correct and up-to-date information regarding their online repositories or services. The semantic aspect of the ODEPO wiki enables data queries across all organizations added to the database. This functionality enabled the construction of this supplement. For more information on how to access the underlying data, and for more information on Semantic MediaWiki queries, see Appendix B.

Within ODEPO there are a number of non-curatorial organizations, or organizations that don't directly host educational resources, including those involved in providing funding for the open education movement (such as the William and Flora Hewlett Foundation). Other websites are included by virtue of being highly informational, hosting online publications, or pointing to resources elsewhere for research and higher education. As this data supplement shows, not all projects in ODEPO are involved in the open education movement. But the database does provide an initial and discerning tool for those interested in research on and collaboration within the OER movement.

This supplement to the original report is provided in the hopes that it will spark additional research and insight regarding the diversity of organizations, and associated licensing policies, involved in open education. Further, we hope that the graphical representations might increase the accessibility and understanding of otherwise complex issues related to license types, interoperability, and the defining characteristics of “open.” ODEPO is a dynamic database, and we encourage interested members of the public and of the OER community to participate in the ongoing expansion and improvement of the dataset, as well as in generating their own visualizations of the information.

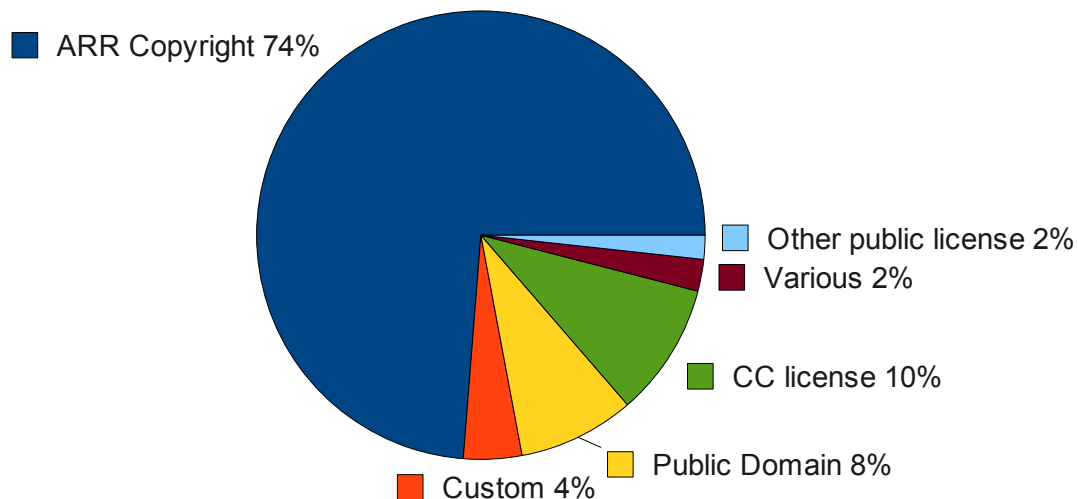
Data for this supplement was pulled from ODEPO between April 27th and June 3rd, 2009. There was negligible statistical change to the database during this time period, but due to the dynamic nature of ODEPO's wiki platform, data used in this supplement are more current than data used in the original “What status for open?” report and continue to be updated thanks to contributions from the open education community.

Summary of Results

This data supplement illustrates the current proportion of licensing methods for projects and organizations in ODEPO. The proportion of sites which protect their works with the default “all rights reserved” copyright is very high, even within the subset of sites that self-describe as “open.” The sites which use the Creative Commons public licenses tend to use the more restrictive licenses, lessening the interoperability of the pool of OER. We draw attention to these and other conclusions from the publicly available data in ODEPO with “Things to note” sections after each visualization.

Figure 1: License usage in ODEPO

(1080 sites)

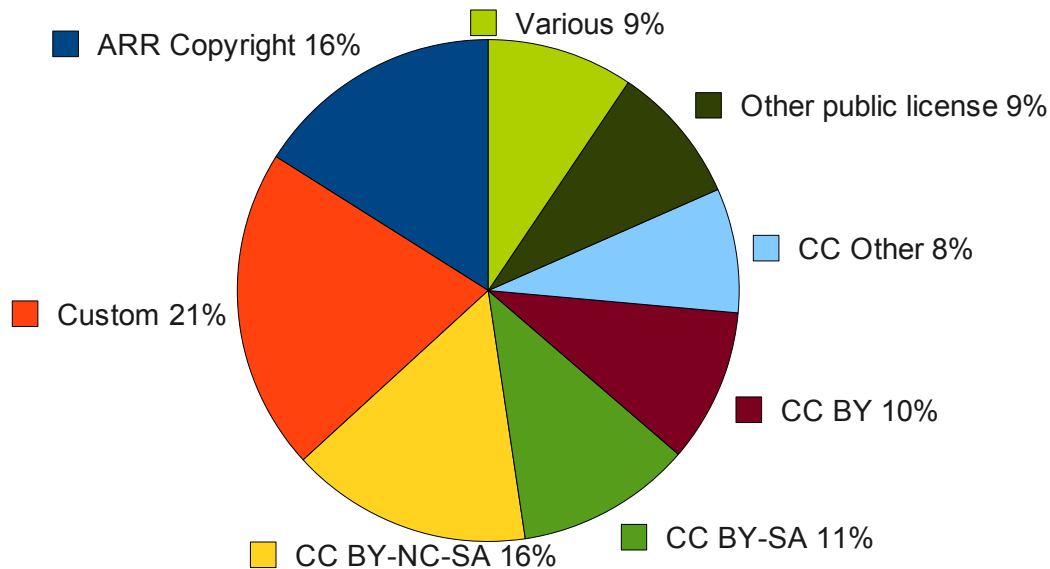


Things to note:

- For definitions of the labels used in this figure see Appendix A. See Appendix B for links to data.
- Traditional ARR copyright is the default licensing method used by a large majority of organizations in ODEPO. Note that all of the organizations that were originally added to ODEPO were provided by members of the education community who had some reason to believe that the organizations were part of the “open education movement.” It is likely that the meaning of “open” is simply unclear to most people. It is also possible that some of these sites intend to be “open” but are unaware that a public license is required for this to be true.
- The proportion of organizations using Creative Commons licenses is nearly the same as organizations whose work is in the public domain. Remember that this graph illustrates the number of sites, not the actual number of resources, so it is difficult to draw any conclusions about the relative quantity of CC-licensed versus public domain educational materials that are available. Nonetheless, it is clear that public domain works (usually government-created) constitute an important part of the total pool of OER to date.

Figure 2: License usage by “open” sites in ODEPO

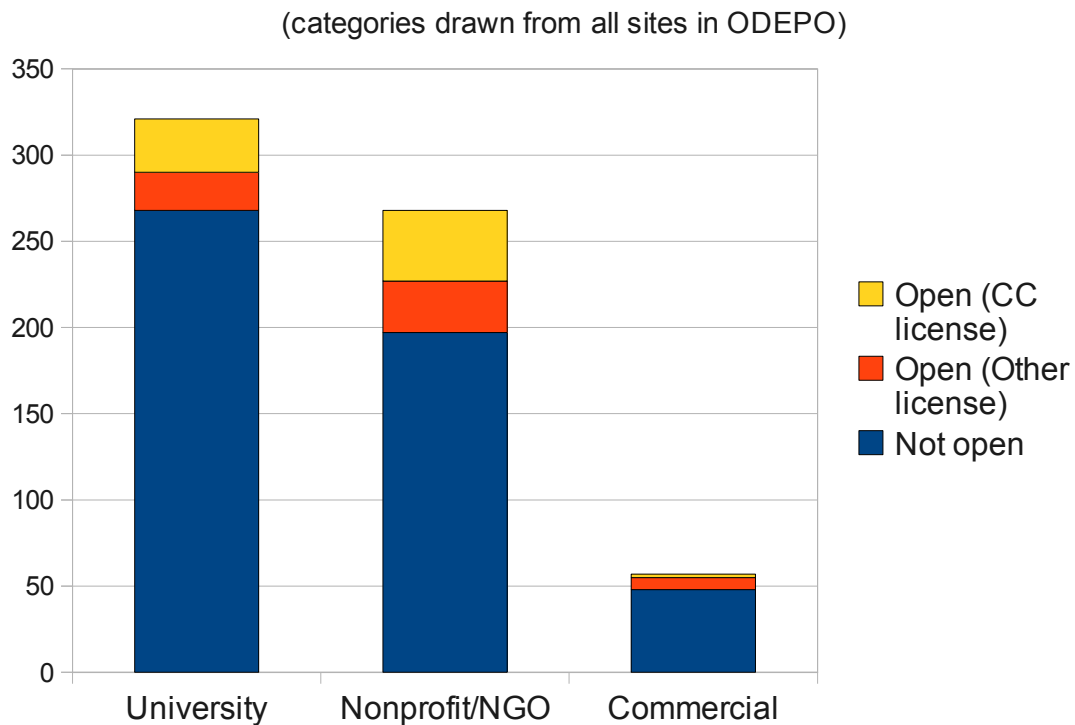
(189 sites)



Things to note:

- For definitions of the labels used in this figure see Appendix A. See Appendix B for links to data.
- ARR copyright and custom licenses are the most popular licensing methods used by sites in ODEPO that self describe as “open.” These types of licenses are legally non-interoperable with any other openly licensed resources, which means that they cannot be combined with other OER unless explicit permission is granted by the copyright holder. The fact that there are so many sites that do not use Creative Commons licenses may indicate some misunderstanding as to what constitutes an “open” resource. It is also possible that some organizations do not feel that any among the existing suite of Creative Commons (and other public) licenses is suitable for their needs.
- The most popular Creative Commons license, CC BY-NC-SA, is only legally interoperable with other CC BY-NC-SA licensed material. That is, if you wish to incorporate a CC BY-NC-SA educational resource into a new educational resource, the only CC license you could apply to that derivative (re-mixed) work would be CC BY-NC-SA. CC BY-SA, the next most popular CC license, works similarly (that is, it is only compatible with other CC BY-SA licensed material). Only CC BY, the third most popular CC license used by “open” resources, allows unfettered recombination with other OER. See Figure 6 for another view of CC license interoperability.

Figure 3: License usage by organization type

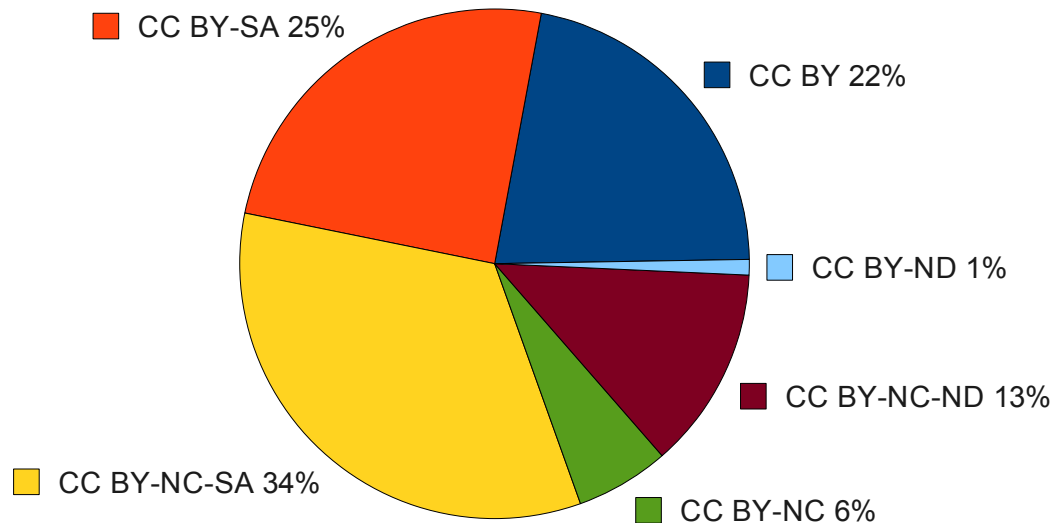


Things to note:

- For definitions of the labels used in this figure see Appendix A. See Appendix B for links to data.
- The large number of University and Nonprofit/NGO sites in the database suggests that people presume that materials from these types of organizations on the Internet are “open,” when in fact most such materials are not.
- Nonprofits and NGOs are more likely to license their resources under an open license than University or Commercial sites.

Figure 4: CC license usage in ODEPO

(101 sites)



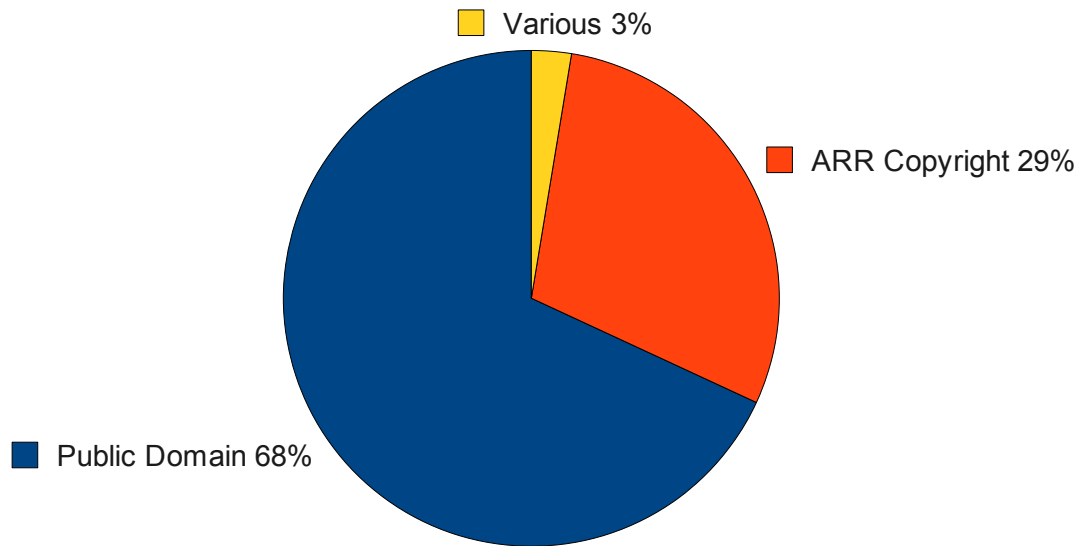
Things to note:

- For definitions of the labels used in this figure see Appendix A. See Appendix B for links to data.
- Note that only about 4% of sites using CC licenses (sites represented by this graph) are not labeled as “open” according to our methodology.³ This implies that nearly all sites that use a Creative Commons license also self-describe as being “open.”
- Together, CC BY-NC, CC BY-NC-ND, and CC BY-NC-SA constitute over half the “open” organizations in ODEPO that use CC licenses. Thus, over half of all organizations involved in the open education movement preclude commercial activity with their resources.
- A significant proportion (14%) of sites that use CC licenses include the No Derivatives (ND) term. This licensing restriction disallows synthesis with other educational resources as well as derivative works aimed at accessibility, such as translations.

³ Two of these sites use the CC BY-NC-ND license, one uses CC BY-NC-SA, and one uses CC BY-SA.

Figure 5: License usage by U.S. Government sites

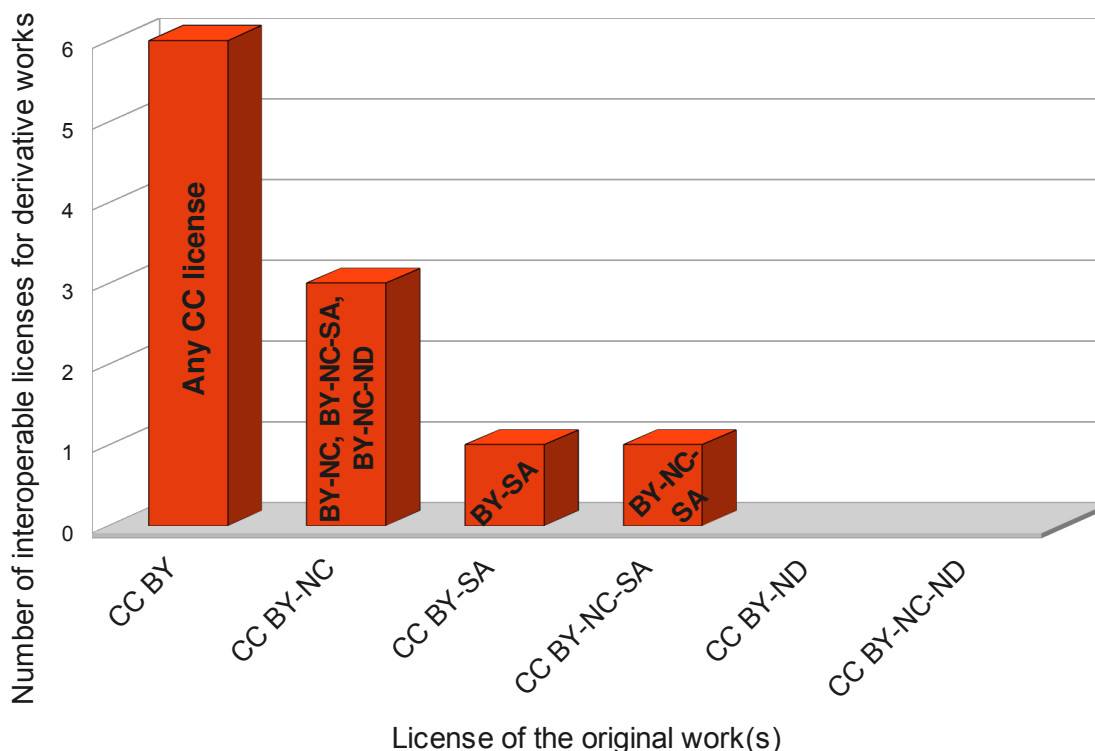
(116 sites)



Things to note:

- For definitions of the labels used in this figure see Appendix A. See Appendix B for links to data.
- Most U.S. Government work is clearly marked as being in the public domain. However, the amount of such work that is not clearly in the public domain is significant. Though one might be excused for assuming that all works on a “.gov” site default to the public domain, in some cases this is not correct, and the risk resides with the user of the site. Therefore, we still categorized all works that are not clearly labeled otherwise as being restricted by “all rights reserved” copyright. This result illustrates the importance of properly marking resources online so that their copyright status is clear.
- Even if a site clearly states that the resources within are in the public domain, those resources do not get the benefit of the machine-readable code that comes with the application of Creative Commons licenses, thereby limiting their discoverability and usefulness for the public.

Figure 6: CC license combinability chart



Things to note:

- For definitions of the labels used in this figure see Appendix A.
- Interoperability refers to the phenomenon of mixing different resources together to create new derivative (re-mixed) works. Such re-mixes are only legal if the licenses of the component parts are “interoperable.” In considering the degree of interoperability for any given license, we are essentially asking the following question: “In mixing a CC-licensed resource together with one or more different CC-licensed resources, which CC licenses can be legally applied to the combined derivative work?” The higher the number, the more interoperable the license.
- Resources under CC BY can be remixed with resources licensed under any other CC license. For this reason we describe CC BY as the most legally interoperable license.
- Resources licensed under CC BY-NC can only be remixed, adapted, and relicensed into resources containing an NC (Non-Commercial) term, which includes CC BY-NC, CC BY-NC-SA, and CC BY-NC-ND.
- Resources licensed under CC BY-SA and CC BY-NC-SA can only be incorporated into derivative works which are relicensed under the same license (e.g. BY-SA with BY-SA, and BY-NC-SA with BY-NC-SA) due to their SA (Share Alike) term.
- Resources licensed under CC BY-ND and CC BY-NC-ND cannot be incorporated into a derivative work, and therefore relicensed, due to the ND (No Derivatives) term in the license.

Appendix A: Definitions

Note: Please see the “Notes on Data Labels” section at the end of this appendix for a more in-depth explanation of the “ARR copyright”, “custom”, and “public domain” data labels.

Figure 1

- **ARR copyright:** Sites licensed under “All Rights Reserved,” or fully restricted copyright.
- **CC license:** Sites using one of the six Creative Commons licenses. See <http://creativecommons.org/about/licenses/> for details.
- **Custom:** Sites licensing their resources using a custom license (any license other than ARR copyright or a standard public license).
- **Other public license:** Sites licensing their resources using a public license other than Creative Commons. For this figure, “Other public license” includes the following: GNU FDL (13), Creative Archive (2), GNU GPL (2), and Open Publication License (1).
- **Public Domain:** Sites that host resources in the public domain.
- **Various:** Sites making resources available under various licensing methods.

Figure 2

- **ARR copyright:** Sites licensed under “All Rights Reserved,” or fully restricted copyright.
- **CC BY:** Creative Commons Attribution
- **CC BY-SA:** Creative Commons Attribution Share Alike
- **CC BY-NC-SA:** Creative Commons Attribution Non-Commercial Share Alike
- **CC Other:** Includes Creative Commons Attribution Non-Commercial, Non-Commercial No Derivatives, and Attribution No Derivatives.
- **Custom:** Sites licensing their resources using a custom license (any license other than ARR copyright or a standard public license).
- **Other public license:** Sites licensing their resources using a public license other than Creative Commons. For this figure, “Other public license” includes the following: GNU FDL (11), Public domain (3), Creative Archive (2), GNU GPL (2), and Open Publication License (1).
- **Various:** Sites making resources available under various licensing methods.

Figure 3

These categories were constructed by looking at “Organization Type” tags in ODEPO and categorizing those tags based on certain criteria:

- **University** includes tags that clearly designate higher-learning institutions. This excludes specific research labs (i.e. the “research organization” type) in ODEPO.
- **Nonprofit/NGO** includes tags of organization types that are directed at a more general philanthropic purpose.
- **Commercial** includes tags that were specifically marked as being a commercial organization or that included the term “company.”

To see the breakdown of which tags were included in each of the categories in the chart, and to see up-to-date data with regards to these categories, visit the following URL:

http://opened.creativecommons.org/OER_Data#Data_by_Org_type

Figure 4

- For a description of the Creative Commons licenses, or to view the license deeds and full text of the licenses, visit <http://creativecommons.org/about/licenses/>.
- **CC BY:** Creative Commons Attribution
- **CC BY-SA:** Creative Commons Attribution Share Alike
- **CC BY-NC-SA:** Creative Commons Attribution Non-Commercial Share Alike
- **CC BY-ND:** Creative Commons Attribution No Derivatives
- **CC BY-NC:** Creative Commons Attribution Non-Commercial
- **CC BY-NC-ND:** Creative Commons Attribution Non-Commercial No Derivatives

Figure 5

- **ARR copyright:** Sites licensed under “All Rights Reserved,” or fully restricted copyright.
- **Public domain:** Sites that host resources in the public domain.
- **Various:** Sites making resources available under various licensing methods.

Figure 6

- For a description of the Creative Commons licenses, or to view the license deeds and full text of the licenses, see <http://creativecommons.org/about/licenses/>.
- **CC BY:** Creative Commons Attribution
- **CC BY-SA:** Creative Commons Attribution Share Alike
- **CC BY-NC-SA:** Creative Commons Attribution Non-Commercial Share Alike
- **CC BY-ND:** Creative Commons Attribution No Derivatives
- **CC BY-NC:** Creative Commons Attribution Non-Commercial
- **CC BY-NC-ND:** Creative Commons Attribution Non-Commercial No Derivatives

Notes on Data Labels

What is “ARR copyright”?

Any educational resource that is not in the public domain (see below) is protected by copyright. By ARR copyright, we mean “All Rights Reserved,” or fully restricted copyright.⁴ In the United States, without permission from the copyright holder, one can only engage in “fair uses” of a copyrighted work, which allows certain activities for certain proscribed purposes.⁵ Many other countries also have certain copyright exceptions and limitations enshrined in law.

If a resource has no copyright or license statement at all, we must assume that the materials are “all rights reserved” since copyright is endowed automatically upon creation (such as in the United States and all signatory nations to the Berne Convention).

What is the “public domain”?

In United States, the “public domain” refers to works that are not protected by federal copyright law. A work may become part of the public domain for a variety of reasons, including expiration of the term of copyright protection, failure of the work to qualify for copyright protection, or dedication of the work to the public domain by the work’s author. The concept of the public domain differs from country to country. Work in the public domain is “no rights reserved.” For more details, see our public domain page on OpenEd.⁶

In ODEPO, a site's resources are considered to be in the public domain for one of two reasons: 1) the site's license states that they have placed all of the resources into the

4 For a description of copyright policies under United States law, see <http://www.copyright.gov/circs/circ1.html>

5 For resources on Fair Use, see: <http://learn.creativecommons.org/resources/#Fair%20Use>

6 http://opened.creativecommons.org/Public_domain

public domain (with or without the Creative Commons public domain dedication), or 2) the site in question belongs to some branch of the United States government, which by law deposits all works directly into the public domain. We assumed that any site with a domain ending in “.gov” is a United States government site.

What is “custom”?

A “custom” license tag designates sites which have chosen to specify some set of terms other than general “all rights reserved” copyright protection. These sites are not using a public license, such as Creative Commons licenses, and instead have drafted their own allowances and conditions. For non-governmental sites, custom licenses grant more freedoms than “all rights reserved” copyright. For (United States) government sites, custom licenses necessarily restrict some of the freedoms that would have otherwise been allowed under the default public domain status.

In some cases, copyrighted materials are marked as being "all rights reserved" with certain allowances beyond fair use--these exceptions are specifically tailored for that material in extra clauses, usually in the site's legal notices. We regard these sites as falling under "custom" copyright because these types of licenses do not lend themselves to standardization and therefore require the same careful consideration about the rights granted as typical "all rights reserved" copyright. Additionally, we may have included certain other licenses (maybe even some claiming to be open) under this “custom” type due to their rare or outdated occurrence. Most of these licenses are incompatible with each other; therefore, they are most easily treated as another custom license.

What do the different CC licenses stand for?

The different Creative Commons licenses grant freedoms that go beyond “all rights reserved” copyright given certain conditions specified by the rights holder. The license short name (CC BY) is not the full license; for example, there are different versions (e.g., 2.5, 3.0 unported) of each license.⁷

What is “open”?

Certain sites call themselves open, free, or libre (or variations thereof). These sites claim that, in some capacity, some or all of their resources are open or free to the public. A site being marked as “open” in ODEPO means these sites have an “open or free statement.” In ODEPO, this categorization can include government web sites that declare most of their material is in the public domain; however, for this data supplement, those government sites are excluded from the “open” category and are instead graphed separately.⁸

⁷ For a full list of CC licenses and their terms, see: <http://creativecommons.org/about/license/>

⁸ *Supra* note 5

It is a different issue as to whether those resources actually *are* open, or *how* open, since there are various ways the term is used. The actual level of openness (whether the resource may be reproduced, changed, built upon, or re-distributed) depends on how the material is licensed. The question we are asking with the “open” tag is simply: does the site (or organization) identify itself as an open resource? There are varying degrees of openness, and many organizations regard themselves as “open” even if their material is fully restricted under copyright law. In the same vein, some organizations encourage more than fair use⁹ of their material under licenses such as the Creative Commons Attribution License¹⁰ which allows you to copy, distribute, transmit and even adapt the work, as long as you give proper attribution to the author.

It is inevitable that some “closed” sites may have been categorized as “open” (or vice versa) given the subjective nature of the analysis. We encourage users of ODEPO as well as representatives of the organizations in the database to correct or augment any of the data so that we can collectively build a database of open educational projects and organizations which more closely mirrors reality. It is also our hope that organizations will see fit to make their intentions more clear by using a standard public license (such as Creative Commons licenses), which will help to clarify the legal status of educational resources so that presumptive users know for certain what rights they do or do not have.

9 For resources on Fair Use, see: <http://learn.creativecommons.org/resources/#Fair%20Use>

10 <http://creativecommons.org/licenses/by/3.0/>

Appendix B: Data

Data sets for Figures 1, 2, 4, and 5 can be found at:

http://opened.creativecommons.org/OER_Data#Data_Supplement

Data generate on this OER Data page directly from ODEPO, which is itself editable by the public, so data available on this page may differ slightly from what is found in this data supplement.

Figure 3 data can be found at:

http://opened.creativecommons.org/OER_Data#Data_by_Org_type

And alternatively at:

http://opened.creativecommons.org/Special:BrowseData/Organization?_single

http://opened.creativecommons.org/Special:BrowseData/Organization?_single&Open_or_Free_Statement=yes

http://opened.creativecommons.org/Special:BrowseData/Organization?_single&Open_or_Free_Statement=yes&License_provider=custom