ARE THE CREATIVE COMMONS PUBLIC DOMAIN TOOLS *FIT-FOR-PURPOSE* IN THE CULTURAL HERITAGE SECTOR?

A Creative Commons Needs Assessment Report

creative commons

Mindet, Chritainsø by Edvard Weie, Public Domain

FOREWORD

This report showcases one of the many ways in which we at Creative Commons (CC) strive to support our global Open Culture community in realizing a vision for better sharing of cultural heritage: we develop and steward a legal, social, and technical infrastructure that supports open sharing that is impactful, generative, equitable and resilient.

For those new to CC, we are an international nonprofit organization dedicated to helping build and sustain a thriving commons of shared knowledge and culture. Together with an extensive member network and multiple partners, we build capacity and infrastructure, develop practical solutions, and advocate for better open sharing. At CC, we are always looking to improve how we respond to needs on the ground to support better sharing. We work hard to support cultural heritage institutions in achieving their missions, especially in the digital environment. To do so, the maintenance of our licenses and tools, focused on the communities they serve, takes center stage.

With this report, we gain valuable insight into the unique needs and challenges of the cultural heritage community with regard to our public domain tools: the public domain mark (PDM) and the public domain dedication tool (CC0). We also define pathways to address those needs, with strategic recommendations to guide future actions. I especially wish to thank our Open Culture team at CC for their work in developing this report, but the participation of over a hundred practitioners from the field — working in libraries, museums and archives and other areas of open culture — underpins the unique value of this important resource.

Catherine Stihler, CEO
23 February, 2023

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EXECUTIVE SUMMARY

To obtain a clearer picture of the use and understanding of Creative Commons' (CC) public domain tools in the cultural heritage sector, in light of the diverse barriers[1] facing cultural heritage institutions (CHIs) in opening up their collections, we performed a needs assessment with a view to developing a set of recommendations to ensure CC's tools continue to be relevant and meet the sector's needs. From 1 January (Public Domain Day[2]) to 15 February 2022, we ran a multilingual online survey using Google Forms to share a 50-question questionnaire in English, French and Spanish.

With hundreds of responses to 50 questions, our survey provides us with ample information. While it is beyond the scope of this brief report to provide in-depth analysis of all the results, we highlight key findings that hold the potential to inform our community about the state of open culture and the role that CC public domain tools might play in supporting it. Here's a brief summary of key findings:

- Most respondents are located in Europe and North America, more than a third work in libraries, and almost all of them share their collection openly.
- The top reason to release content openly is to "increase institution's presence, visibility, reach and relevance online."
- More than a fourth use both CC0 and PDM — mostly to release metadata and digital reproductions of public domain works.
- While about a little less than a third share a small part of the collection with CC0 or PDM, only about 4% share their entire collection with either tool.
- About one third use CC0 because of the possibility that copyright or similar rights may exist in the digitization of the public domain work (31.3%), while almost half use PDM because there are no rights to be waived or dedicated to the public domain that would justify using CC0 (47.5%)— this seemingly contradictory result points to the great disparity between jurisdictions on copyright protection of reproductions of public domain works.
- Close to one third feel highly confident about their understanding of how CC0 and PDM work.
- The CC website is by far the number one source of information on CC public domain tools.
- Users are, from respondents' perspective, confused about CC0 and PDM.
- New information materials are likely to improve users' understanding.
- Sharing collections and metadata with CC public domain tools is largely considered appropriate.
- Guidance and clarification top the list of ways CC could encourage greater tool use.
- Reuse tracking, credit and ethical needs are not met with CC public domain tools — new or improved tools could address them.
- About two thirds find the legal jargon used in the CC public domain tools complicated or are neutral about it.
- More than half understand the difference between CC0 and PDM, but 28% do not or not at all.
- 48% find determining the copyright or public domain status of works in collections difficult.
- About one third do not know which of CC0 or PDM is better to use to release digital reproductions of items in collections.
- 29% are afraid of what might happen when releasing content into the public domain.
- 72% see how CC public domain tools can make a difference in how the institution shares its collection.
- 77% think CC0 and PDM could be combined to simplify how to mark public domain materials or are neutral about it.
- 21% believe that releasing content into the public domain will enable their institutions to be more financially sustainable.
- 29% are of the view that CC public domain tools do not take account of cultural or ethical concerns that are important for their institution.

Based on the above findings, we developed recommendations to address some of the most pressing needs in four steps:

- **Step 1: Get to know and understand our global community better**
- **Step 2: Raise awareness, offer guidance and build capacity**
- **Step 3: Probe unmet needs**
- **Step 4: Explore legal and technical improvements to the tools**

INTRODUCTION

CREATIVE COMMONS, OUR TOOLS, AND BETTER SHARING OF CULTURAL HERITAGE

Creative Commons[3] (CC) is the global non-profit organization that stewards the CC licenses and public domain tools.[4] Together, these international legal standards form the legal, social, and technical infrastructure that supports worldwide better sharing of creative content, i.e. open sharing that is impactful, generative, equitable, sustainable and resilient.[5] CC's public domain tools can be used to place digital content (such as images, sound, video, 3D scans, associated metadata, and more) into the public domain and/or indicate its public domain status. CC provides two tools: the Public Domain Mark[6] (PDM) and the CC0 (1.0 Universal) Public Domain Dedication[7] (CC0). While their legal particularities differ, both serve to indicate that there is no copyright in the content: it is in the public domain, free for anyone to use for any purpose. Our CC0 PDM comparison chart offers a side-by-side comparison of the two tools.[8]

With our Open Culture program[9], we strive to propel cultural heritage institutions (CHIs) — also known as GLAMs (galleries, libraries, archives and museums) — through their digital transformation and help them achieve better sharing of cultural heritage. Goal 3 of our 2021–2025 Strategy[10] aims to: "Transform Institutions — To make knowledge and cultural heritage assets as openly accessible as possible." Our tools have become the gold standard for CHIs that are "opening up" their collections, helping navigate copyright challenges and enabling broad access and (re)use of cultural heritage across borders. We work hard to ensure our tools are as simple, applicable, and intuitive as possible for everyone to maximize the heritage sector's potential impact. We continuously engage in progressive opportunities to bolster innovative, user-centered solutions that meet the concrete needs of CHIs and their users.

Tiger in the Jungle by Paul Elie Ranson, CC0

OUR OBJECTIVE: UNDERSTAND THE CURRENT PICTURE OF CC PUBLIC DOMAIN TOOLS USE IN THE CULTURAL HERITAGE SECTOR

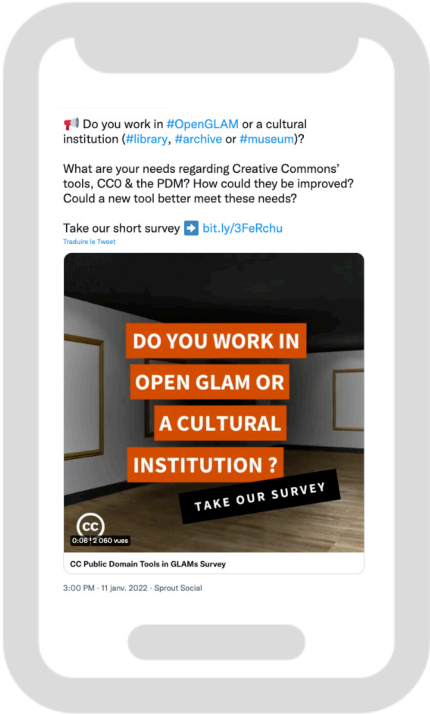
To obtain a clearer picture of the use and understanding of CC's public domain tools in the cultural heritage sector, in light of the diverse barriers facing CHIs in opening up their collections, we performed a needs assessment in the first months of 2022. We sought to find out: how are CC public domain tools used? Are they fit-for-purpose? What are the needs, wishes, expectations, gaps and possible solutions related to CC0[11] and the Public Domain Mark[12]? Our ultimate goal was to develop a set of recommendations based on the responses to such questions in order to ensure CC's public domain tools continue to be relevant and meet the needs of the sector. From 1 January (Public Domain Day[13]) to 15 February 2022, we ran a multilingual online survey using Google Forms to share a 50-question questionnaire in English, French and Spanish. Other versions of the questionnaire were developed by members of the CC community (e.g., Bahasa Indonesia and Italian) but any results from those versions do not form part of the present report. The questionnaire included both qualitative and quantitative questions.

The questionnaire was targeted at practitioners and experts working in GLAMs / CHIs. We promoted the survey via a social media campaign, mailing lists (CC-run and from partners in the field), and personal email invitations to individual institutions. In our outreach strategy we aimed to ensure: geographic diversity by disseminating and promoting the survey on a global level; size diversity (in terms of staff number, number of visitors and collection size); openness diversity (institutions at different stages of openness (early adopters, followers, late comers and those still contemplating open)).

Our survey questions were articulated around two main themes: (1) the state of open access at the institution and (2) use, understanding, information, and needs related to public domain tools within the institution and among its users. Questions included: What are your needs regarding CC0 and PDM? How could these tools be improved? Could a new tool better meet these needs? For the purposes of this survey, we relied on the following notions:

- "Open access" means no-cost access that enables the public to reuse, adapt and redistribute materials for any purpose, including commercial use.
- "Content" refers to images, text, data and metadata, audio, visual or audiovisual files, 3D scans, or other digital or digitized content.

We acknowledge the following limitations: uneven response rate across questions; limited geographical scope; technical errors in the questionnaire form; non-scientific methods, and reliance on basic data processing tools. The full questionnaire is available in three languages.[14] The survey data results are available in anonymized form (all identifying information as well as free from answers have been deleted from the public file) for further research and are released CC0.[15]



Screenshot of Creative Commons Tweet posted on 11 January 2022 by Creative Commons

KEY FINDINGS

With hundreds of responses to 50 questions, our survey provides us with ample information. While it is beyond the scope of this brief report to provide in-depth analysis of all the results, we highlight key findings that hold the potential to inform our community about the state of open culture and help define our roadmap for future action.

WHO AND WHERE ARE OUR RESPONDENTS?

In total, we received 133 individual responses from 44 different countries on five continents. Here are some highlights about them.

- 74% in Europe, USA and Canada
- 38% in the library field
- 36% in digital departments
- 90.2% share their collection online
- 84.5% share them openly, of which 48% share a large portion of the collection

Our sample thus consists mainly of institutions that already practice open access, which is consistent with our intended target group.

Fig. 1: List of Respondent Countries

Countries	Frequency	in %			
Argentina	1	0.8%	Japan	1	0.8%
Australia	2	1.5%	Kenya	3	2.3%
Austria	1	0.8%	Mexico	2	1.5%
Belgium	2	1.5%	Netherlands	4	3.0%
Brazil	3	2.3%	New Zealand	2	1.5%
Canada	7	5.3%	Nigeria	3	2.3%
Chile	3	2.3%	Pakistan	1	0.8%
Colombia	1	0.8%	Portugal	1	0.8%
Costa Rica	1	0.8%	Qatar	1	0.8%
Czechia	9	6.8%	Rwanda	1	0.8%
Denmark	3	2.3%	Slovakia	1	0.8%
Estonia	1	0.8%	Slovenia	1	0.8%
Ethiopia	1	0.8%	South Africa	1	0.8%
Finland	2	1.5%	Spain	16	12.0%
France	3	2.3%	Sweden	3	2.3%
Germany	7	5.3%	Switzerland	4	3.0%
Greece	5	3.8%	Tanzania	1	0.8%
India	1	0.8%	Turkey	2	1.5%
Ireland	1	0.8%	Uganda	1	0.8%
Israel	1	0.8%	United Kingdom	4	3.0%
Italy	11	8.3%	USA	11	8.3%
Ivory Coast	1	0.8%	Venezuela	2	1.5%
			Grand Total	**133**	**100.0%**

Fig. 2: Type of Institution where Respondent Works

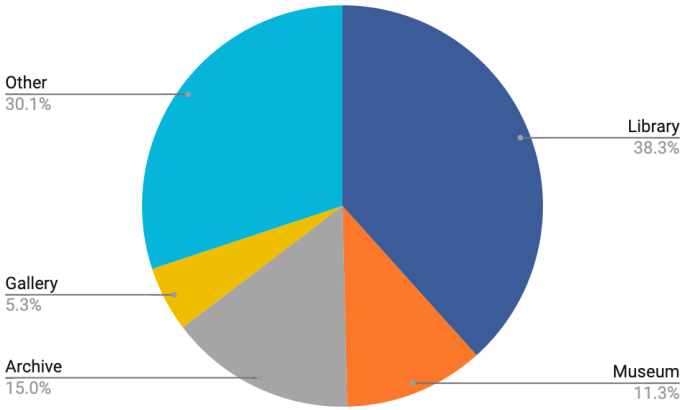
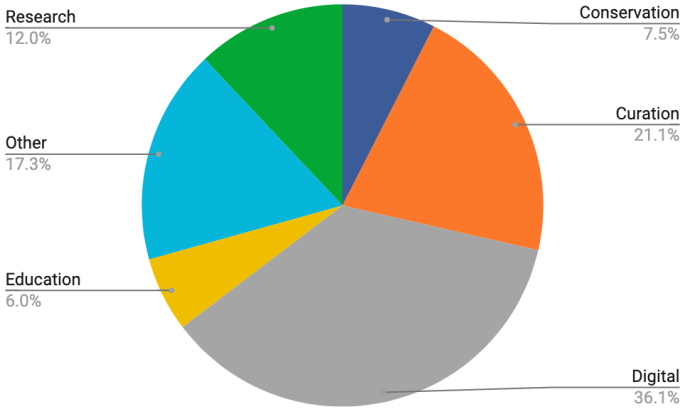


Fig. 3: Department where Respondent Works



Forest Drawing by Arnold William Brunner, Public Domain

TOP 5 REASONS TO OPEN ACCESS TO COLLECTIONS

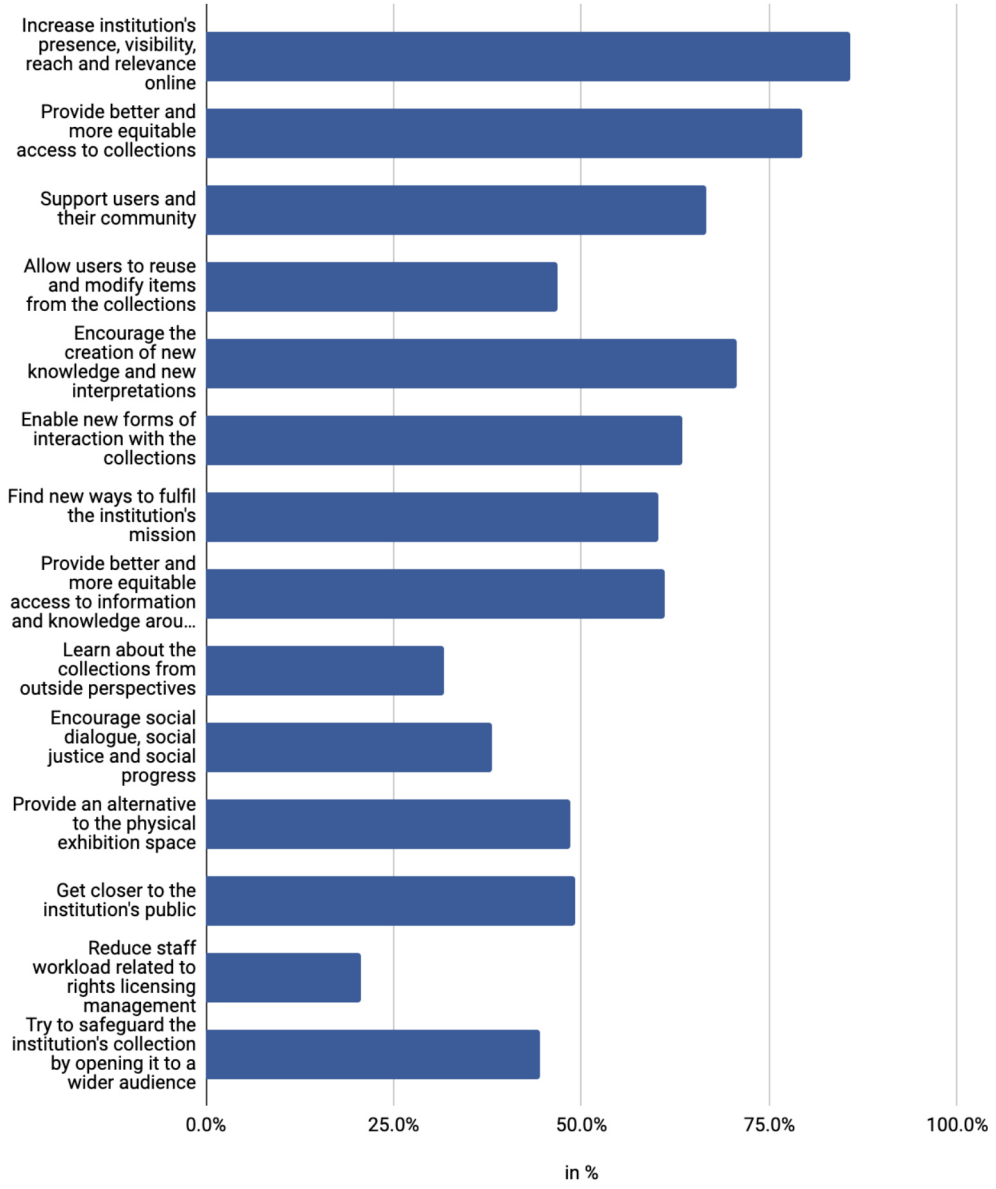
We asked about the main reasons for openly releasing online digital content from collections. Here's the top 5 (from a selection of suggested options):

1. Increase institution's presence, visibility, reach and relevance online
2. Provide better and more equitable access to collections
3. Encourage the creation of new knowledge and new interpretations
4. Support users and their community
5. Enable new forms of interaction with the collections

When prompted to suggest non-listed reasons, respondents added goals around:

- PRESERVATION: "Protect and preserve the physical originals"; "Protect physical collections from wear and tear"; "Ensure preservation of the original content"
- EQUITABLE ACCESS: "Provide open access and open content culturally relevant to underserved populations"

Fig. 4: Reasons to Open Access to Collections (multiple answers possible)

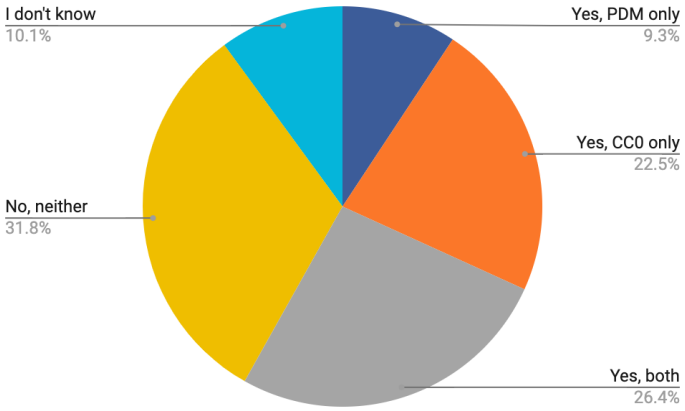


A DISSIMILAR USE OF CC PUBLIC DOMAIN TOOLS ACROSS INSTITUTIONS

We asked whether the institution was using CC's public domain tools and we got a diverse range of responses. Many don't… but many more do:

- About ⅓ do not use any of the CC public domain tools at all
- About ¼ use both CC0 and PDM
- A lot more use CC0 only (22.5%) than PDM only (9.3%)

Fig. 5: Institution Uses the CC Public Domain Tools



WHAT TYPES OF CONTENT ARE CC PUBLIC DOMAIN TOOLS USED WITH?

CC public domain tools are used mostly to release metadata and digital reproductions of public domain works.

Fig. 6: Contexts in which Institution Uses CC0 (multiple answers possible)

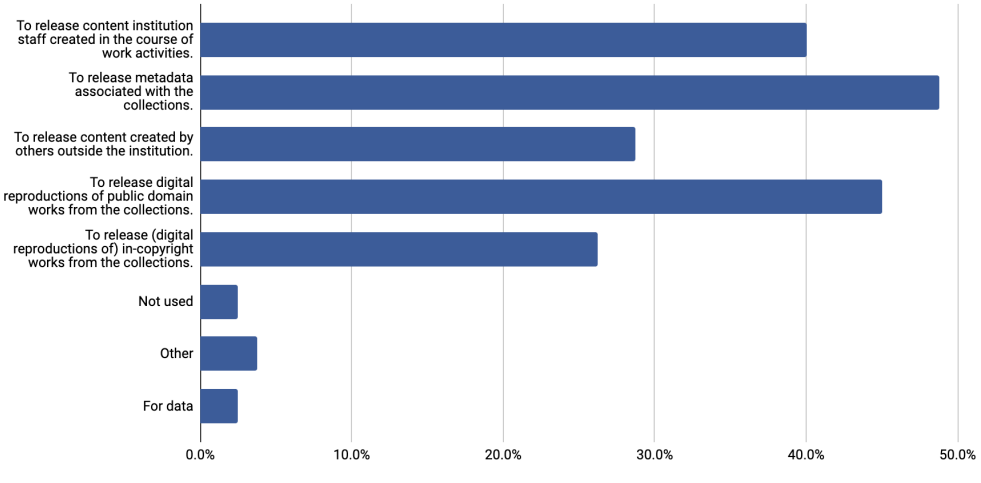
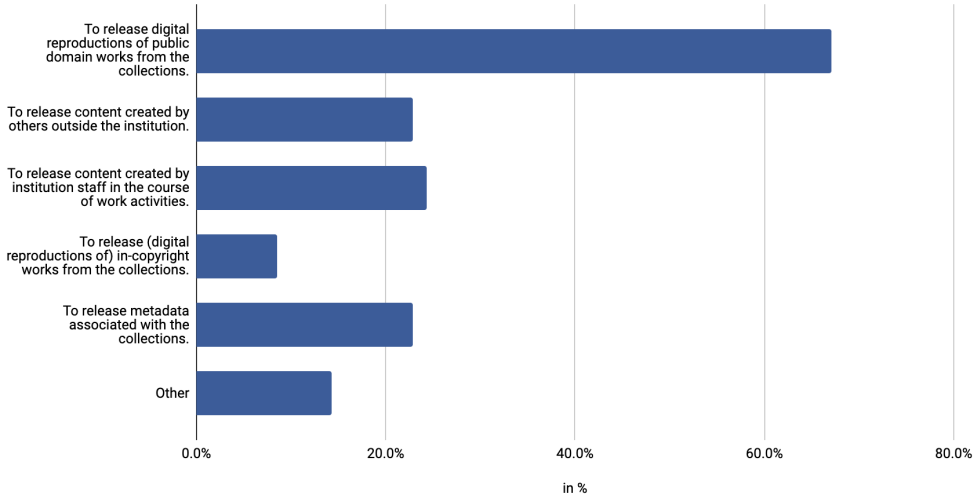


Fig. 7 Contexts in which Institution Uses PDM (multiple answers possible)



A SMALL PART, A SIGNIFICANT PART, OR THE ENTIRE COLLECTION?

While about a little less than a third of respondents share a small part of the collection with CC0 or PDM, only about 4% share their entire collection with either tool.

Fig. 8: Is CC0 Used in the Release of… the Collection?

- None of the collection 30%
- The entire collection 4%
- A small part of the collection 30%
- A large part of the collection 17%
- I don't know 13%
- Other 6%

Fig. 9: Is PDM Used in the Release of… the Collection?

- None of the collection 20.4%
- The entire collection 32.3%
- A small part of the collection 4.3%
- A large part of the collection 25.8%
- I don't know 15.1%
- Other 2.2%

WHY USE CC0/PDM ON DIGITAL REPRODUCTIONS OF PUBLIC DOMAIN WORKS?

- About ⅓ use CC0 because of the possibility that copyright or similar rights may exist in the digitization of the public domain work (31.3%).
- Almost half use PDM because there are no rights to be waived or dedicated to the public domain that would justify using CC0 (47.5%).
- About 14.1% admit not having a good understanding of which tool to use.

Fig. 10: When deciding which of the CC Public Domain Tools to apply, we rely upon the following rationales: (multiple answers possible)

- We use the PDM on digital reproductions of public domain works because there are no rights to be waived or dedicated to the public domain that would justify using CC0. 41.5%
- We use CC0 on digital reproductions of public domain works because of the possibility that copyright or similar rights may exist in the digitization of the public domain work.Do you find PDM easy to apply to content? 31.3%
- We do not have a good understanding of which tool to use. 27.3%
- Other 14.1%

A REASONABLY GOOD UNDERSTANDING OF USING CC PUBLIC DOMAIN TOOLS

Respondents reported a relatively good understanding of how to use CC public domain tools, with close to ⅓ being highly confident about their understanding of how CC0 and PDM work. However, responses were a little less positive with regard to how easy it is to apply the tools to content.

Fig. 11: Understanding of CC Tools (On a scale from 1(low) to 5(high))

	1	2	3	4	5
• How confident do you feel about your understanding of how PDM works?	15%	13%	16%	29%	27%
• How confident do you feel about your understanding of how CC0 works?	8%	8%	22%	30%	31%
• Do you find PDM easy to apply to content?	14%	13%	29%	17%	27%
• Do you find CC0 easy to apply to content?	12%	9%	34%	23%	29%

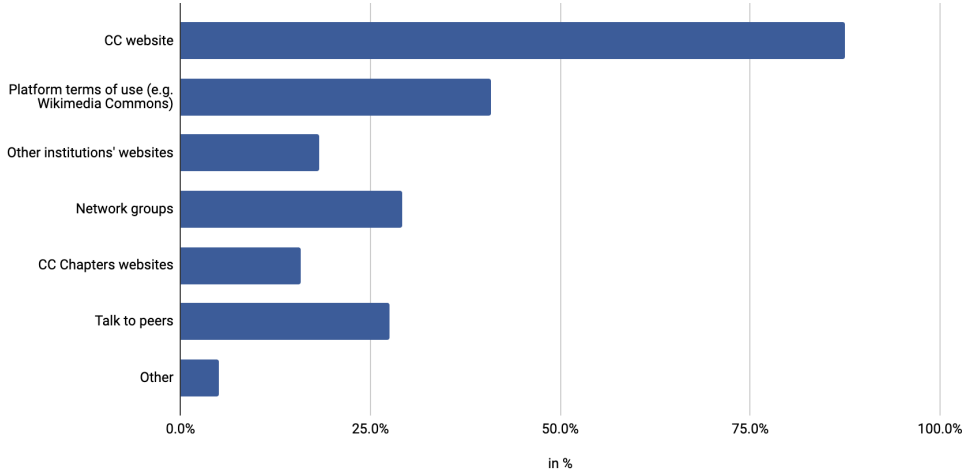
CC WEBSITE IS THE #1 SOURCE OF INFORMATION ON CC PUBLIC DOMAIN TOOLS

A large majority of respondents reported that it was easy to find information about the CC public domain tools, but when it came to rating the information, responses show room for improvement. The CC website was the number one source of information by far, followed by sharing platforms' terms of use.

Fig. 12: Information about CC Tools (On a scale from 1(difficult) to 5(easy))

	1	2	3	4	5
• How easy is it to find information about the CC tools?	4%	5%	23%	29%	39%
• How would you rate the information available explaining how the CC tools work?	5%	8%	23%	39%	25%

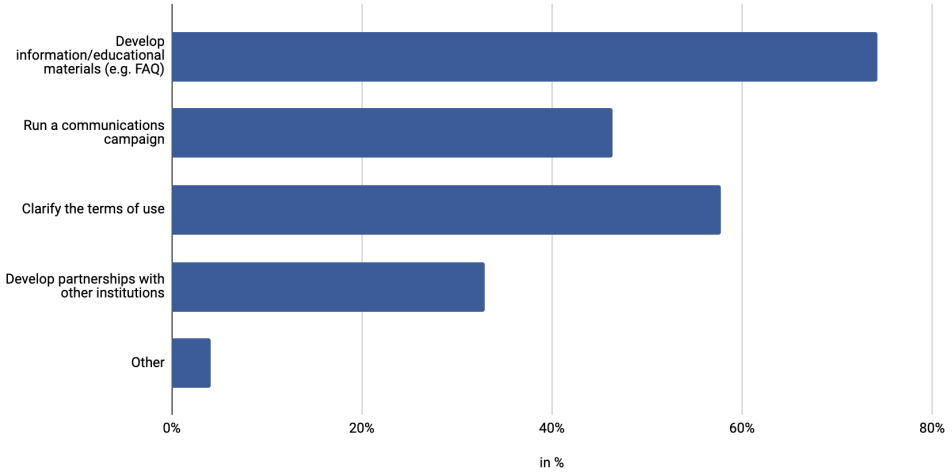
Fig. 13: Preferred Sources of Information About CC Tools (multiple answers possible)



NEW INFORMATION MATERIALS CAN IMPROVE USERS' UNDERSTANDING

Respondents ranked their preferred methods from a supplied list of options, and developing information materials comes as a clear favorite.

Fig. 14: Ways to Improve Users' Understanding (multiple answers possible)



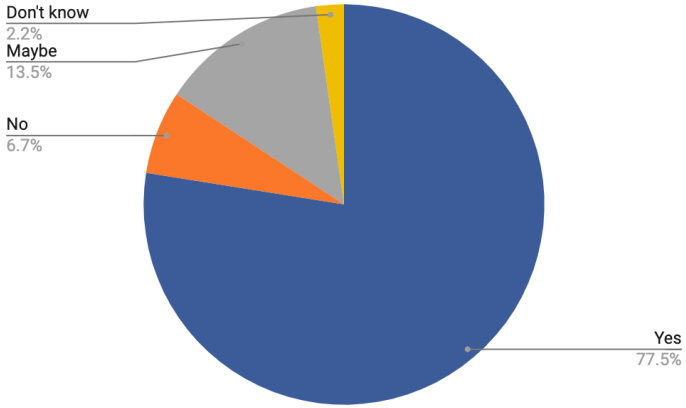
From those respondents who answered "other", ideas include:

- "Better / clearer communication via our own online collection user interface."
- "Create educational programs and campaigns especially for higher education in creative industries."
- "I think it is not a problem to understand CC0 for the final users, it is a problem to understand CC0 for the institutions. We should recommend CC0 more clearly and more explicitly. A flag which says 'recommended tool for public cultural institutions on all their content'."

USERS ARE, FROM RESPONDENTS' PERSPECTIVE, CONFUSED ABOUT CC0 AND PDM

Respondents told us that, based on what they know, their users seem confused about the difference between the two CC public domain tools.

Fig. 15: Based on what you know, do you think users are confused about the difference between CC0 and PDM? (Coded answers based on open questions)



Here are some of the additional comments they shared:

- Probably? I think it's clear but since we still get permission requests even when all our digitized material is clearly labeled with the PDM there is probably confusion all around.
- Yes. I think end users don't necessarily understand the difference. And even practitioners sometimes have difficulty understanding when to apply one over the other.
- I think most users think that CC0 and PDM are basically the same since they both don't bear any restrictions on the use and reuse of the content.
- Yes, including us :)
- If they aren't involved in the open movement, for sure.
- Yes, it even took us curators a while to fully grasp the differences.
- They have no idea what it is.
- The nuances between the two and their application are not clear to many.
- Si, creo que yo tampoco lo tengo muy claro.

SHARING COLLECTIONS AND METADATA WITH CC PUBLIC DOMAIN TOOLS IS LARGELY CONSIDERED APPROPRIATE

Regarding PDM, 68% consider PDM appropriate to share collections online or are neutral about it, while 32% find it completely or somewhat inappropriate. A lot of whether or not PDM is appropriate to share collections online hinges on the copyright status of the materials: public domain materials seem to require the PDM whereas material in copyright may be released using CC0, which is also the preferred option to deal with legal uncertainty and lack of harmonization. The issue of rights clearance is recurrent and appears to limit the use of CC tools. Some of the reasons invoked include: PDM is not a legal tool (simply a label); it does not enable acknowledging local communities; digital reproductions of 3D (e.g., photographs of sculptures) objects are often protected by copyright and thus require using CC0 rather than PDM.

Fig. 16: Sharing Content with PDM (On a scale from 1(not) to 5 (very))

	1	2	3	4	5
• How appropriate is PDM for your institution in sharing your collection online?	18%	14%	18%	25%	25%
• How appropriate is PDM for your institution in sharing metadata about the collection online?	25%	11%	24%	17%	23%
• How useful is PDM in meeting your institution's needs?	14%	9%	26%	22%	28%

Here are some of the additional comments we received:

- All the material we currently host is out of copyright and straight copies can't be copyrighted (this is a philosophical stance) so there is no need to release copyright, just to state that the materials are public domain.
- We have many public domain works, but also some where copyright status cannot be determined 100%. Also to future proof CC0 might be a better option.
- We are working with local communities and their members, who have been often invisible or anonymous. So their content is shared more with open-access licenses that contain terms for attribution and less with a PDM, so they can be acknowledged. However, misuses of open-access sharing may affect their well-being, social and economical life, it is a complicated issue.
- We have lots of PD content, we just don't mark it explicitly by PDM mark.
- We handle a lot of diverse materials in collections with unclear authorship and copyright holders.
- Art- 14 Copyright Directive removes copyright or related rights on images of PD artworks. No copyright = PDM. CC0 presupposes copyright. Consequently PDM is the only appropriate tool.
- We want to share Public Domain content with correct rights labeling and PDM makes it easy and links to explanations of Public Domain terms.
- Les collections sont dans le domaine public mais les photographies (objets en 3D) sont soumises au droit d'auteur.
- La política sobre preservación de patrimonio cultural y colecciones está en desarrollo, incluyendo aspectos de derechos de autor. En consecuencia, no hay lineamientos institucionales. Por tal razón, aunque hay información en la comunidad, no se maneja con fluidez y propiedad lo relacionado con el dominio público.

Regarding CC0, 74% consider it appropriate or are neutral about using it to share collections online, and 16% find it inappropriate.

Fig. 17: Sharing Content with CC0 (On a scale from 1(not) to 5 (very))

	1	2	3	4	5
• How appropriate is CC0 for your institution in sharing your collection online?	16%	10%	29%	23%	22%
• How appropriate is CC0 for your institution in sharing metadata about the collection online?	5%	9%	17%	23%	46%
• How useful is CC0 in meeting your institution's needs?	8%	10%	21%	30%	31%

Here are some of the additional comments we received:

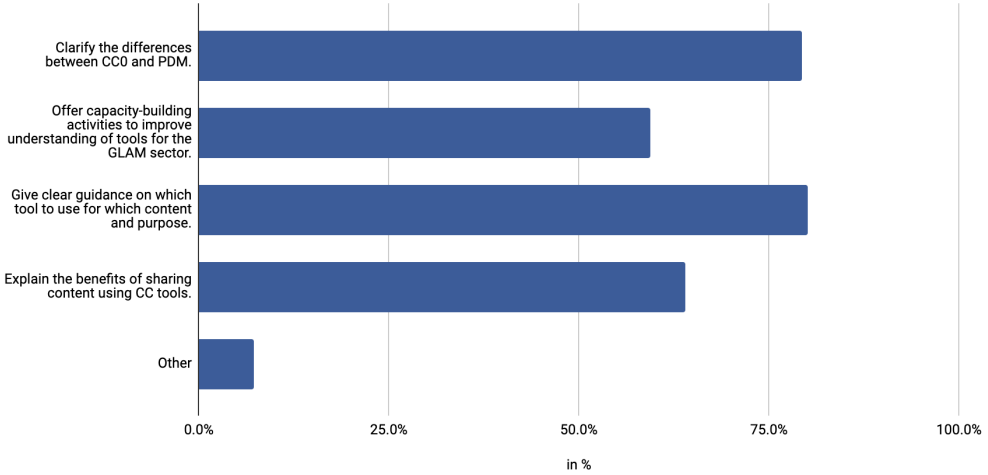
- CC0 is the universal tool if you are a holder of copyright or database rights and you wish to waive all your interests, if any, in your work worldwide.
- Works where we own copyright are made available as CC BY, aside from metadata and editorial web content in some cases, to promote provenance and source crediting. Few rights holders who give us permission to use their content online would agree to CC0, so CC BY is our go-to license when requesting permission.
- Most content is either under PDM or under copyright. If we decide to use an open license we prefer CC BY or CC BY-SA so that our institution must [sic] be credited.
- For out-of-copyright works, we apply PDM. For in-copyright works we sometimes apply CC0, but mostly CC BY.
- Our special collection is very large. some of it is digitized, some not. and much of the collection hasn't undergone a rights analysis at a systematic level where something like PDM would even be applied. we are working on a rights assessment workflow.
- Adding a recommended citation would be useful (source/location of the collection and authors, even if it is not obligatory to mention them).
- We prefer to use “No copyright restrictions" on out of copyright material, and feel using a CC0 license is confusing.
- We view CC0 as the tool that best expresses and facilitates our institutional open access policy for digital reproductions of works in the public domain. We understand that CC0 is appropriate for application in cases where the creator of the digital file does not wish to claim any rights it might have in the digital reproduction. We also understand CC0 provides greater certainty for cross-border reuse, and we participate in several collaborations with international partners.
- Nearly all of the documents or artworks are already in PD!
- We use PDM for public domain and other CC licenses or other open licenses for other collections. We don't think that digital reproductions create new copyright protection that has to be waived.
- It's an elegant choice to make for an institution to share. thumbs up! But not always possible, a lot of work goes into that decision - but in my personal opinion it is worth it.
- Elle concerne uniquement les modélisations 3D. Les images des collections étant sous Licence Ouverte Etalab plus restrictive.
- Nos interesa que se acredite la procedencia del objeto digital.
- No todos están dispuestos a renunciar a sus derechos.
- La mayor parte de nuestro repositorio entra dentro de los parámetros de PDM y no somos poseedores de derechos para incluirlas como CC0.
- Si la obra está en dominio público, es mejor PDM; si no lo está, cualquiera de las otras licencias CC es más conveniente.

GUIDANCE AND CLARIFICATION TOP THE LIST OF WAYS CC COULD ENCOURAGE GREATER TOOL USE

Here's what respondents said CC could do to encourage greater use of CC public domain tools (from a list of options, multiple answers possible):

- Give clear guidance on which tool to use for which content and purpose (80.2%)
- Clarify the differences between CC0 and PDM (79.3%)
- Explain the benefits of sharing content using CC public domain tools (64.0%)
- Offer capacity-building activities to improve understanding of tools for the GLAM sector (59.5%)

Fig. 18: Ways CC Could Encourage Greater Use of CC Tools (multiple answers possible)



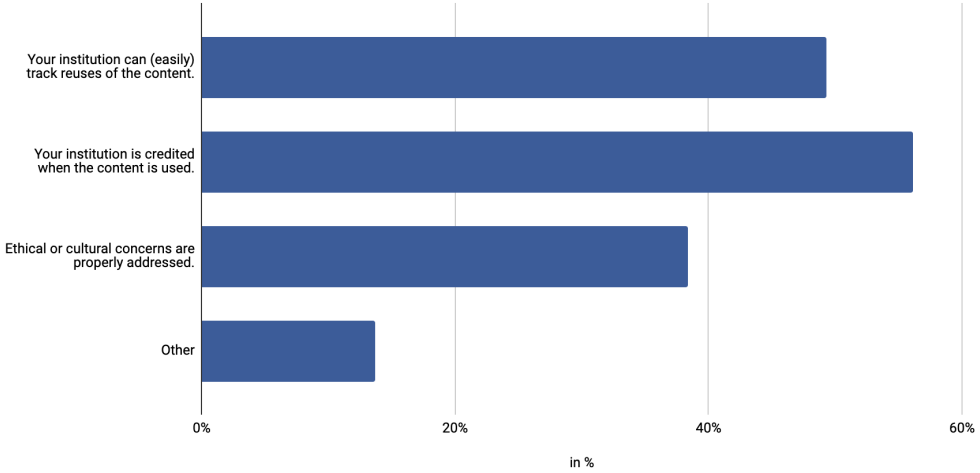
Additional ideas include:

- Devote more energy to CC0 or its successor.
- Perhaps some examples of implementation that address a range of strategic objectives that may be relevant to [GLAMs]. Address the specific risks that may be perceived (loss or revenue, reputational or legal damage caused by incorrectly assigned licenses).
- Not focusing on the tools but on why people need them. Are you a GLAM --> go for the CC0. Are you a researcher CC0 for data and CC BY for other content, are you a non profit ---> move away from the NC (non commercial is not for the non profit!!).
- Any tools must have an API to deal with large numbers of documents (we have 53000 public documents now).
- Setting up more exchanges between GLAMs and the creative industries.

REUSE TRACKING, CREDIT AND ETHICAL NEEDS NOT MET WITH CC PUBLIC DOMAIN TOOLS

Regarding CC0, respondents share their unmet needs and responded, from a choice of options, that the main reason was that they wanted to be credited (56%), followed by a desire to track reuses of the content (49%), and a need to address ethical or cultural concerns (38%).

Fig. 19: What needs, if any, are not met by CC0? (multiple answers possible)

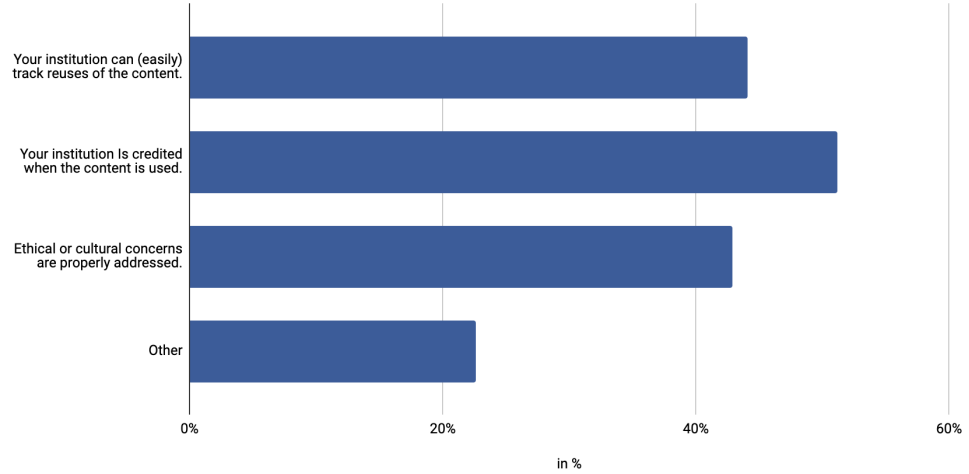


"Other" responses largely mapped onto the given options:

- Tracking reuse is an analytics challenge. CC could do more to help track usage with new technologies on the legal tools or unique IDs.
- We want to encourage reuse while communicating potential ethical or cultural considerations.
- Not being credited is an important part of not deciding in favor of CC0.

Regarding PDM, a very similar picture emerges, with a need for credit taking the first spot.

Fig. 20: What needs, if any, are not met by PDM? (multiple answers possible)



IMPROVING THE TOOLS / CREATING NEW TOOLS WITH REUSE TRACKING, ETHICAL CONSIDERATIONS, AND CREDIT TO INSTITUTIONS

Regarding CC0, many mentioned the need for more training, capacity building and awareness raising to enhance clarity, especially around different contexts. The most cited improvement recommendations include a mechanism for non-mandatory credit and the possibility to track reuse.

How could CC0 be improved based on your institution's needs?

- Creating a point of reference not only of generic explanations for CC0, but context-specific ones. For example in the case of working together with local communities, developing trustful sources of reference with CC0 good practices and uses based on their needs.
- Maybe with the possible traceability of re-use of metadata.
- Require credit and disallow abuse of content.
- … CC should recommend tools on its website (PLEASE ADD "Recommended for GLAMs" on CC0, "Not compatible with Open Access" on all ND and NC...).
- We would like to be able to track research or commercial use.
- Podría ser màs claro en su diferencia con PDM para el usuario.

For PDM too, more training and capacity building, along with a need for clear guidance were often mentioned.

How could PDM be improved based on your institution's needs?

- It should be retired or incorporated into a next generation legal tool built on CC0.
- Less "legalese", easier to read description of terms. Countrywide legal adaptations. (In Sweden there are possibilities to extend copyright protection due to ethical/cultural concerns for instance, so a blanket statement might need additional details).
- Clearer recommendations for using PDM alongside guidance for ethical reuse such as Traditional Knowledge Labels, and suggestions on communicating how these work together for users.
- Ways to engineer the mark to include useful (machine-readable) data.
- The PDM could be improved by making it mandatory to indicate the location of the material.
- Include cultural definitions of open access, or create a different type of license.
- All the options in question 40 are important to us and we have to deal with them independently of the PDM labeling. In some cases that leads to restricting public access just to make sure that we can pass ethical or attribution requirements to those who want to use our PD collections.
- Tracking reuse would be great! Ways to look into web 3 options would be great.
- Nos interesa que se acredite la procedencia del objeto digital.

Some of the needs that could potentially be met by creating new tools include:

- Standard tools to track reuse.
- Issues and concerns about non-representative and non-dominant understandings of copyright.
- Ethical issues around privacy and cultural sensitivity.
- Tool extensions for metadata for content management systems and standards to enable metadata to be machine-readable.
- Monetisation of content created with CC.

Three respondents said that we should **not** create a new tool as this would create confusion, but that existing tools should be adapted instead.

Additional comments include:

- Currently my biggest challenges are (1) communicating ethical considerations regarding privacy, cultural sensitivity, etc. that are distinct from but complement copyright/legal licensing metadata; and (2) helping users and donors overcome intimidation around CC language and licenses. For the latter, it would be really helpful to have more guidance on how to talk about CC with language that avoids jargon. For instance, several years ago we transitioned to an oral history form that applies a CC license, but it is clear that interviewees are not always getting a clear explanation about its meaning or implications for future use. In another case, a family lawyer objected to the use of a CC license for a project, even though we ultimately developed a rights statement with terms nearly identical to CC-BY-NC-ND.
- Capacity building, awareness, collaboration.
- A very useful tool would be to integrate CC licenses extensions in the metadata of content management systems as drop-down menus (in a similar way metadata fields can be linked to the Dublin Core/DCMI terms). In addition, (machine readable) standards for documenting the cultural content of communities (a type of metadata model for open licenses). Also standards for documenting artists who use the work of communities.
- I am afraid that -at the moment- creating new and different tools might increase the confusion around copyright and CC licenses. I think what we currently need are more clear guidelines when to license a work under a CC license / tool (and under which one), and when not.
- Just keep it simple.
- Permit users to more easily monetize works created with CC content.
- We would like to have some tools related to risk management and orphan works. Another area is to track the usage.
- Help institutions in NOT selecting "ND" license, for example not saying that you have to choose it to have "non commercial purposes", but saying instead that you choose that "to keep a commercial monopoly", so "ND" is not encouraged by mistake to non-profits

View in Tropical Forest / Darien Expedition by John Moran, Public Domain

10 THOUGHT PROVOKING STATEMENTS

At the end of our questionnaire, we provided a series of statements and asked people to which degree they agreed with them. Here's a selection of the most striking responses in no particular order.

1. About ⅔ **find the legal jargon used in the CC public domain tools complicated** or are neutral about it.
2. **56% understand the difference** between CC0 and PDM, but 28% do not or not at all.
3. About **48% find determining the copyright or public domain status** of works in collections difficult.
4. About ⅓ **do not know which of CC0 or PDM is better** to use to release digital reproductions of items in collections.
5. About **29% are afraid of what might happen** when releasing content into the public domain.
6. **72% see how CC public domain tools can make a difference** in how the institution shares its collection.
7. **18% [mistakenly] believe they can apply CC0** even if they do not own copyright in the digital content.
8. **77% think CC0 and PDM could be combined** to simplify how we mark public domain materials or are neutral about it.
9. **21% believe** that releasing content into the public domain will enable their institutions to be **more financially sustainable.**
10. **29% are of the view** that CC public domain tools do not take account of **cultural or ethical concerns** that are important for their institution.

Here are all the statements we asked about:
Statements from 1 (do not agree at all) to 5 (totally agree))

	1	2	3	4	5
• The legal jargon used in the CC tools is complicated.	7%	29%	36%	15%	13%
• Determining the copyright or public domain status of works in our collection is difficult.	8%	17%	27%	19%	29%
• I understand the CC tools in theory, but I find them hard to apply in practice.	11%	31%	28%	18%	12%
• I understand the difference between CC0 and PDM.	16%	12%	16%	21%	35%
• I do not know which of CC0 or PDM is better to use to release digital reproductions of items in our collection.	26%	19%	21%	15%	19%
• I am afraid of what can happen if I release content into the public domain.	33%	17%	21%	17%	12%
• I am not sure if the CC tools apply to the digital reproductions or to the underlying copyright works, or both at the same time.	21%	20%	23%	16%	20%
• I wonder if, by using a CC tool, users will be able to give credit to my institution.	26%	16%	18%	19%	21%
• I do not see how CC tools can make any difference in how my institution shares its collection.	47%	25%	14%	4%	9%
• I do not see the point of using CC0 on material that is already in the public domain.	28%	13%	21%	18%	21%
• Releasing content into the public domain will make my institution more financially sustainable.	22%	16%	42%	10%	11%
• CC tools do not take account of cultural or ethical concerns that are important for my institution.	20%	17%	35%	14%	15%
• I cannot apply CC0 if I do not own the copyright.	9%	9%	29%	9%	43%
• I think the CC0 and PDM tools could be combined to simplify how we mark public domain materials.	9%	14%	33%	18%	26%

RECOMMENDATIONS AND ROADMAP FOR THE FUTURE

Based on the above findings, we developed a top-level four-step roadmap for future action that we aspire to carry out in order to address some of the most pressing needs and to improve the use of the CC public domain tools in the cultural heritage sector. These recommendations and the scope and extent of possible future initiatives are contingent upon many factors, including capacity, resources, and future funding — so, as much as we are committed to realizing them, we acknowledge practical challenges which we will seek to resolve. We consider these as the first steps that CC might take and hope it gives a taste of what we wish to embark on first, expecting these will lead to other activities further down the road.

- **Step 1: Get to know and understand our global community better.**
- **Step 2: Raise awareness, offer guidance and build capacity.**
- **Step 3: Probe unmet needs.**
- **Step 4: Explore legal and technical improvements to the tools.**

1. GET TO KNOW AND UNDERSTAND OUR GLOBAL COMMUNITY BETTER

Based on the fact that most respondents are located in Europe and North America, we recognize the need to broaden our outreach to a wider geographical scope and greater diversity of CHIs, including institutions that are small, low-capacity, underserved, underrepresented, and/or outside Canada, the USA, and Western Europe. We believe that their needs and perspectives must be included in the global conversations that CC is leading about open culture. This is corroborated by several CC-community case studies about experiences of low-capacity and geographically diverse cultural heritage institutions, as reported in our May 2022 blog post "Eight case studies show opportunities, challenges, and needs of low-capacity and non-Western cultural heritage institutions."[16]

How we hope to do it:

- Develop **an outreach plan** for new communities and audiences.
- Develop **resources to orient** new members.
- Organize **"meet and greet" virtual events** to welcome new members.
- **Identify local partners** to conduct localized outreach.
- Organize **consultations about contexts and specificities** of our widened global community.
- **Engage with new members** to encourage and support participation.

2. RAISE AWARENESS, OFFER GUIDANCE AND BUILD CAPACITY

Our findings point to some struggle in choosing which CC tool to use with public domain works, in particular in light of the uncertainty regarding the copyright status of non-original reproductions of works. At CC, we have long advocated for digital reproductions of public domain works (and related metadata) to remain in the public domain. No new copyright or related rights should attach to non-original reproductions of public domain works upon being digitized. We aspire to contribute to improving the legal clarity and certainty around the use and effects of our public domain tools.

We aim to provide clear, simple, accessible, relevant, easy to understand, and engaging guidance. We also aim to provide educational materials and trainings to explain the differences between CC0 and PDM, how to choose between the two, CC's position on their use as well as concrete examples of best practices. CC intends to offer these resources in languages other than English and we hope to develop non-traditional resources, including memes, comics, infographics, and animated explainer videos that speak to a non-expert audience.

We also aim to offer enhanced capacity-building for various actors of the open culture sphere, ranging from CHI practitioners to creators and (re)users, members of the creative industries, as well as researchers and educators.

CC will also work towards strengthening knowledge about public domain tools in CHIs, and develop practical and concrete guidelines on how to apply the tools.

How we hope to do it:

- **Upgrade existing and/or develop new simple**, accessible, and informative resources, including CC's website.
- **Share and disseminate knowledge,** best practices and practical information through written communications and materials.
- Participate in **related discussions** at CC-organized and community- and partner-organized external events.
- Explore options for a **coalition "Friends of Open Culture."**
- Promote the **CC Open Culture / GLAM Certificate** training.[17]
- Seek **funding to support certificate training** for professionals from underrepresented regions/sectors.
- Promote the CC Open Culture **platform as a capacity building space**.
- **Diversify our professional development trainings** to address a greater variety of needs.

3. PROBE UNMET NEEDS

Results tend to point to three areas of unmet needs: ethical issues, institution credit and reuse tracking. Firstly, some of the findings indicate a need to scope the points of intersection between openness and concerns around respectful, ethical and culturally-sensitive use of materials. We thus intend to explore the interplay between CC public domain tools and ethical and cultural concerns. CC is exploring nuanced and respectful approaches to open sharing and the application of CC licenses and tools to wrongfully appropriated, culturally sensitive works. Secondly, some of the data shows that several CHIs [wrongly] resort to CC licenses instead of public domain tools to share reproductions of works in their collection. To curb this legally problematic use of licenses over public domain materials, CC could explore other options to meet the need of crediting institutions in full legal certainty, along the suggestions developed by the Open Culture Platform working group investigating the use of CC BY to designate holders of public domain collections.[18] A third unmet need is the desire for institutions to track reuse of their online content.

How we hope to do it:

- **Continue and formalize conversations** to explore paths to weave open culture with cultural respect imperatives; for example, organize or take part in convenings of experts (e.g., working groups, webinars, conferences, etc.).
- **Develop guidance on open culture, ethical and cultural considerations** and respect, and identify resources compatible with CC's better sharing approach.
- **Continue the conversation on the credit / acknowledgement** of institutions as source of collection item and continue to explore and implement solutions.
- **Research reuse tracking options** in line with open culture values and community needs.

4. EXPLORE LEGAL AND TECHNICAL IMPROVEMENTS TO THE TOOLS

A number of findings converge to indicate some level of confusion or doubt around which of the two CC public domain tools to use to share digital reproductions of works online. There is seemingly significant time and capacity spent on choosing between the two. CC could explore the possibility of merging the two public domain tools in order to dispel confusion and to ensure that the PDM can be applied to digital reproductions, without any risk of there being rights in the digital reproduction layer needing to be waived.

How we hope to do it:

- **Hold consultations** with open culture and stewardship community members as well as public users of CC public domain tools in general to determine opportunities to merge CC0 and PDM into a more flexible tool.
- Produce a **first draft of what a combined tool might look like** for consideration and development.

Jungle Fowl for Allen & Ginter Cigarettes by G. S. Harris & Sons, Public Domain

ENDNOTES

1. What are the barriers to open culture? Here's what the CC community has to say by Brigitte Vézina (22 July 2022), https://creativecommons.org/2022/07/22/what-are-the-barriers-to-open-culture-heres-what-the-cc-community-has-to-say/
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3. Creative Commons Homepage https://creativecommons.org/
4. Creative Commons Licenses https://creativecommons.org/about/cclicenses/
5. License Stewardship https://creativecommons.org/stewardship/
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12. About Public Domain Mark https://creativecommons.org/share-your-work/public-domain/pdm/
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14. Questionnaires
    1. English https://drive.google.com/file/d/1ArFtZ5rwXehn9M_1wyX8PZa7HNrEy1tE/view?usp=share_link
    2. French https://drive.google.com/file/d/1XXHhnSDAE7bH3EowrxdJVvXoe3umamEP/view?usp=share_link
    3. Spanish https://drive.google.com/file/d/1FWTSV8mXbXlx9UnF_C4YkrdTCudXAwvI/view?usp=share_link
15. Needs Assessment Responses Anonymized https://docs.google.com/spreadsheets/d/1qEFhO-xuwNH_hkW8PEKpmjL9rvzgfHUccj9Kp6guICs/edit?usp=sharing
16. Eight case studies show opportunities, challenges, and needs of low-capacity and non-western cultural heritage instiutions by Camille Françoise and Brigite Vézina (4 May 2022) https://creativecommons.org/2022/05/04/eight-case-studies-show-opportunities-challenges-and-needs-of-low-capacity-and-non-western-cultural-heritage-institutions/
17. Creative Commons Certificate Course https://certificates.creativecommons.org/
18. Report of the Working Group to Investigate Use of CC BY designate holders of public domain collections by Deborah de Angelis (6 February 2023) https://medium.com/creative-commons-we-like-to-share/report-of-the-working-group-to-investigate-use-of-cc-by-to-designate-holders-of-public-domain-679e75c05e8f.

IMAGES

- Mindet, Christianso by Edvard Weie, Public Domain; https://open.smk.dk/en/artwork/image/KMS6391 Statens Museum for Kunst
- Tiger in the Jungle by Paul Elie Ranson, CC0; https://www.clevelandart.org/art/1956.280 The Cleavland Museum of Art
- Screenshot of Creative Commons Tweet posted on January 11, 2022 by Creative Commons https://twitter.com/creativecommons/status/1480902490442842117?ref_src=twsrc%5Etfw
- Phone by Yusup Apandi, CC BY 4.0 https://thenounproject.com/icon/phone-4572630/
- Forest Drawing by Arnold William Brunner, Public Domain; https://collection.cooperhewitt.org/objects/18611055/
- View in Tropical Forest / Darien Expedition by John Moran, Public Domain; https://www.si.edu/object/view-tropical-forest-darien-expedition:npg_S_NPG.2007.117 Smithsonian Institution
- Jungle Fowl, from Birds of the Tropics series (N38) for Allen & Ginter Cigarettes by George S. Harris & Sons, Public Domain https://www.metmuseum.org/art/collection/search/420754 The Metropolitan Museum of Art
- Wooded view near Barbizon by Johan Hendrick Weissenbruch, Public Domain; https://www.rijksmuseum.nl/en/collection/SK-A-1923 Rijksmuseum

QUESTIONS OR COMMENTS?

Reach out and let us know!

*Email **info@creativecommons.org** to share your feedback with us.*

Do you want to know more about CC's activities related to open culture and those of the open GLAM community?

- Become a member of the **CC Global Network** https://network.creativecommons.org/
- Become a member of the **CC Open Culture Platform** https://docs.google.com/forms/d/e/1FAIpQLSdMXU5Sb6ATDZx-alTvf9DCfs3jzDlX-AKCY7sowjb3vqW0HA/viewform
- Sign up to the **CC Open Culture mailing list** https://groups.google.com/a/creativecommons.org/g/cc-open-culture
- Join the **#cc-openglam Slack channel** https://creativecommons.slack.com/archives/C57MTL8F7
- Participate in **CC Open Culture Platform calls** — they are announced in the Slack channel and on the mailing list

Needs assessment conducted by Creative Commons: January – February 2022

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- Review and editing: Nate Angell.
- Feedback: Ony Anukem, Kat Walsh, Yuanxiao Xu, Jennryn Wetzler.
- CC is grateful for Camille Françoise's contribution.

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Wooded View near Barbizon by John Hendrick Weissenbruch, Public Domain