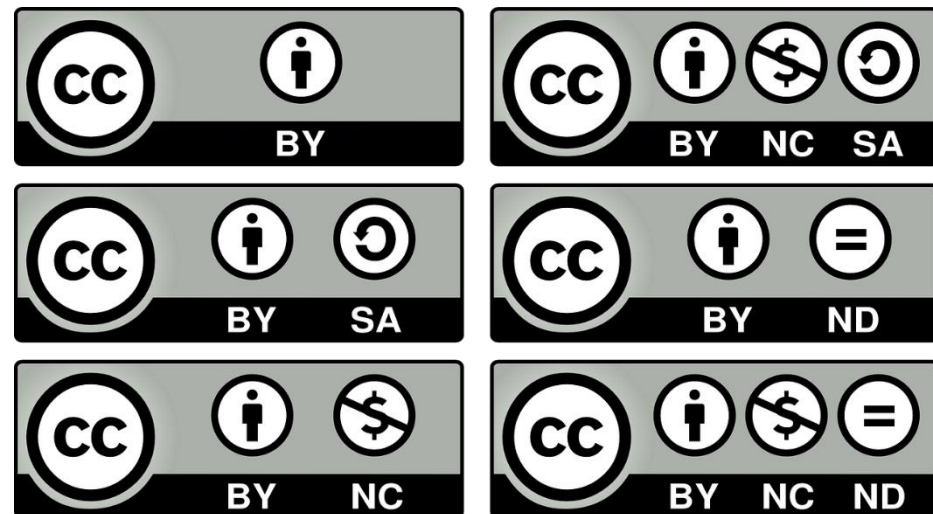


HOW UNCOMMON? CREATIVE COMMONS LICENSING IN HORIZON 2020 DATA MANAGEMENT PLANS

DANIEL SPICHTINGER



COPYRIGHT AND CREATIVE COMMONS



- By default, copyright entails that “all rights are reserved”.
- While they operate within the legal framework of copyright (and thus are enforceable in a court of law), **creative commons only uses a “some rights reserved” approach.**
- Exactly which kinds are reserved is the **choice of the licensor through the creative commons license** they assign.



DATA MANAGEMENT AND CC IN HORIZON 2020 AND HORIZON EUROPE

- **Horizon 2020:** open research data pilot (extended to the whole programme as of 2021/7), but always with opt-out possibilities (e.g. IP concerns, personal data protection)
 - Key requirement: DMP (if no opt out)
 - *Recommendation* to provide an „appropriate“ CC licence, with CC-BY and CC-0 being mentioned, Metadata: CC-0
- **Horizon Europe:** „evolution not revolution“: governing principle to manage research data responsibly in line with FAIR and the “as open as possible as closed as necessary” principles
 - Key requirement: DMP (opt-out only for open access to data, not for DMP itself)
 - Beneficiaries to ensure open access ASAP under CC-BY, CC-O or equivalent unless exceptions apply (to be justified in the DMP)
 - Metadata: CC0
 - CC-BY or CC-O also for publications (separate discussion)

STUDY OVERVIEW



Creative Commons Certificate

The CC Certificate helps us work together to build an equitable, accessible, and innovative world through sharing open knowledge and culture.



Certificates

- Key question: how many Horizon 2020 projects have used creative commons licences for their data, which ones and in which context?
- Potential Conclusions for Horizon Europe Mandate
- Developed as part of my Creative Commons Certificate*
- Publication pending

*earning a Creative Commons (CC) digital credential will not authorize you to provide legal advice, represent your opinions as official interpretations of CC tools, or speak on behalf of CC or its Network Chapters.

METHODOLOGY



- Based on a collection of 840 publicly available DMPs created in a previous project
 - Available at <https://phaidra.univie.ac.at/detail/o:1140797>, (content *not* screened)
 - Project Results at <https://open-research-europe.ec.europa.eu/articles/1-42>
- Identification of which of these 840 DMPs mention CC and among those which specific CC licences are being used
 - Automated search with manual double checking



FINDINGS

- From 840 DMPs, **35,9% (302)** percent contain **some reference to creative commons**
- Strategy: „a thousand flowers“
 - Some projects define a policy for whole project
 - Others leave dataset licencing up to individual project partners (since those are owners of the results)
 - In some cases: partners given a choice between CC licences
 - One case: CC licence only to jointly owned results
- In many cases there was not just one CC licence used but rather a number of them
 - The rationale for which licence was used for which data differed among projects.
 - In some cases, more restrictive licences for commercially sensitive data, in others such data not opened at all



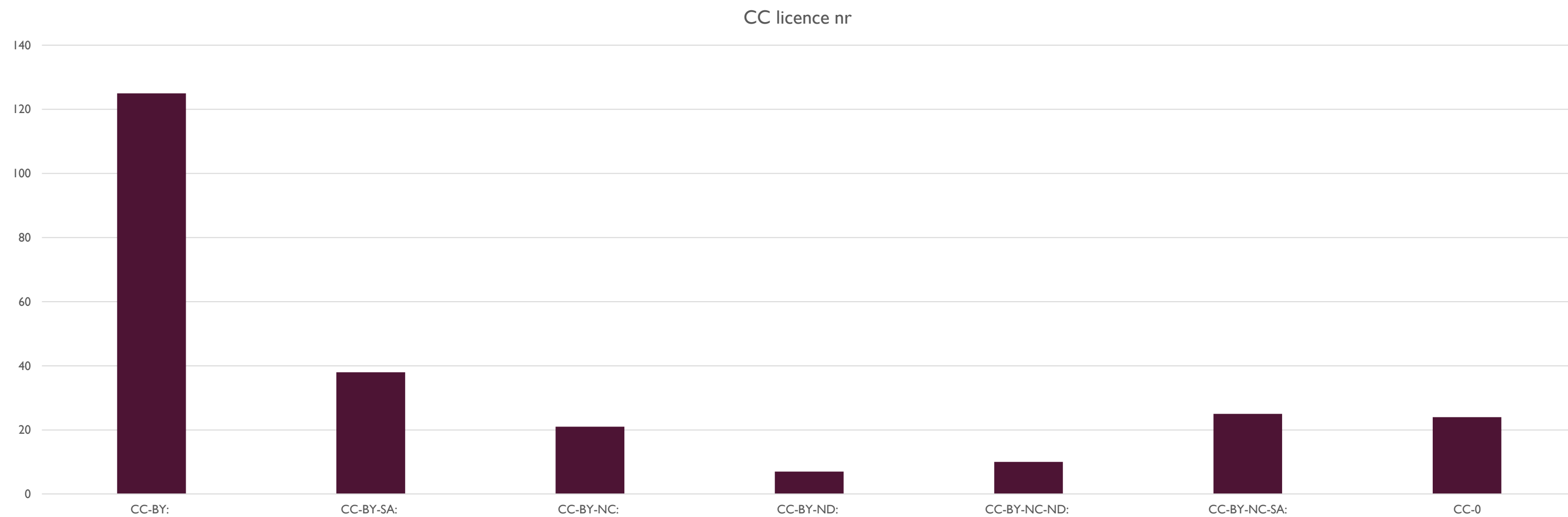
FINDINGS

- In **many cases vague phrasing** with CC licences being used „where appropriate“, where possible“
- Often: just a statement that a CC licence will be used but not which one
- In some cases: licence choice based on output or data format or presumed target groups
- In many cases: no prescription but recommendation
- In several cases whole issue still under discussion
- A number of DMPs simply quote EC guidelines without indicating which approach the project has chosen
- In some project similar wording was used, indicating the use of a template

DECISIONS FOR QUANTITATIVE ANALYSIS

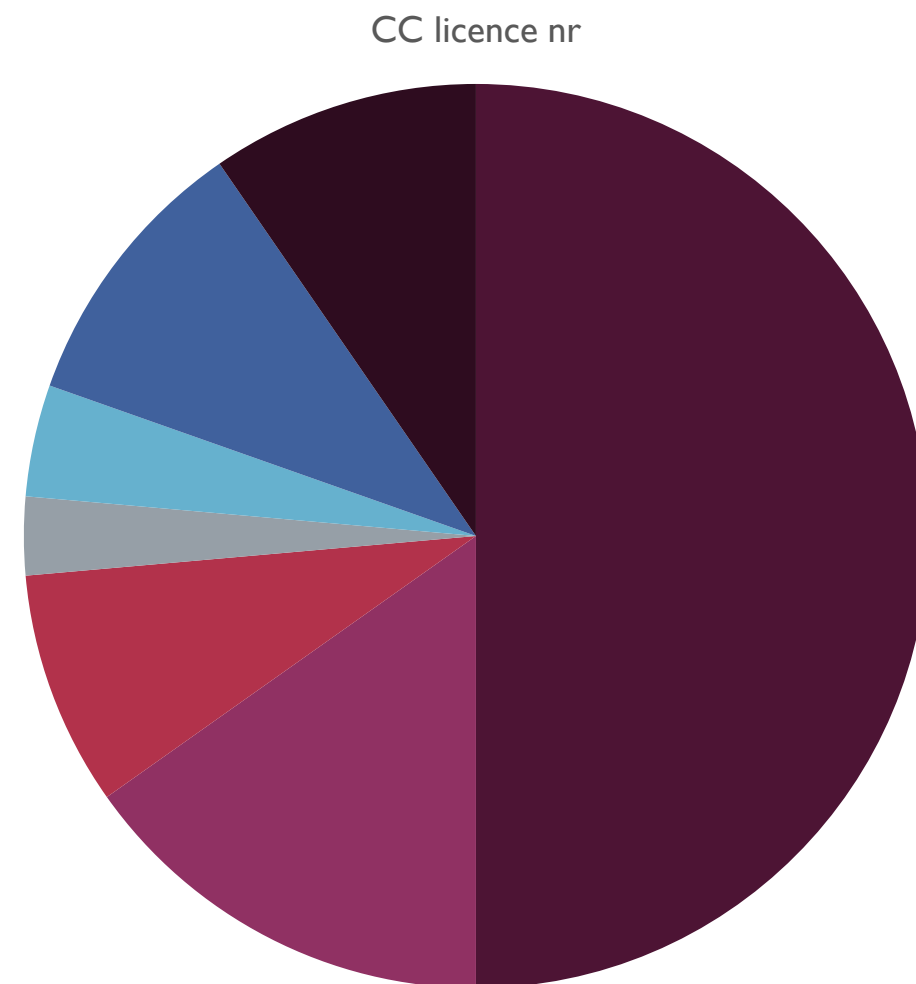
- If a project applies more than one licence, each licence type will be counted (but only once)
- If a project only reiterates the EC requirements without indicating which licence(s) it has chosen, this will not be counted
- If a project only refers to a CC licence for publications and not for data this will not be counted
- If a project used hedging words such as “as far as possible” “for most data” etc this will be counted
- If a project does not have a licencing policy but includes in the DMP concrete datasets which are licenced, these licences will be counted
- If a project indicates that its policy has not been finalised but has recommendations on which licences to use, these will be counted
- If a project mentions CC licences for public data that it re-uses but does not indicate a CC licence policy for its own data, this will not be counted
- A generic mentioning of using the “CC licence family” or similar is not sufficient to be counted for each specific CC licence; rather the specific CC licence has to be at least mentioned as being under consideration
- Outcome N=250

DISTRIBUTION OF CC SPECIFIC LICENCES IN DMPS



CC-BY 125, CC-BY-SA 38, CC-BY-NC-SA 25, CC0 24, CC-BY-NC 21, CC-BY-NC-ND 10, CC-BY-ND 7 N=250

DISTRIBUTION OF CC SPECIFIC LICENCES IN DMPS



CC-BY 125, CC-BY-SA 38, CC-BY-NC-SA 25, CC0 24, CC-BY-NC 21, CC-BY-NC-ND 10, CC-BY-ND 7 N=250



CONCLUSIONS

- “Wildwuchs” (uncontrolled development): **only 36% of DMPs mention CC and among those that do there is a variety of approaches**, often vaguely worded
- However, among those DMPs that do mention specific CC licences, the **CC-BY licence emerges as a clear favorite (50%)**
 - CC-BY-ND is the least favourite licence.
 - A number of licences chosen restrict commercial re-use.
 - CC0 is not very popular (a number of CC0 licences are for metadata)

WHAT DOES THIS MEAN FOR HORIZON EUROPE?



1. The fact that only 36% of DMPs mention creative commons means that **a lot of projects are either not familiar or do not consider them relevant**. This indicates a **need for further training and awareness raising** (in line with previous findings) management
2. Given that Horizon Europe mandates CC-BY or CC-0, 149 out of 250 licences mentioned – that is **59,6% Horizon 2020 DMPs would be compliant to the requirement**. The new Horizon Europe mandate is useful in that it does away with the variety of different, often vague, policies and non-binding recommendations that we find in Horizon 2020 DMPs.
3. In Horizon Europe, the **Grant Agreement only allows a choice between CC-BY and CC-0**. This begs the question of what will happen to content similar to what is in Horizon 2020 licenced CC-BY-SA, CC-BY-NC CC-BY-ND, CC-BY-NC-ND and CC-BY-NC-SA. Here two option seem to exists:
 - a) such content will in the future be made available in a more open manner, through the use of the prescribed licences CC-BY or CC-0
 - b) such content will in the future be completely closed off, with projects citing the “as open as possible, as closed as necessary” principle and preferring to keep such content closed.

no data yet on H-E DMPs!



daniel@spichtinger.net



danielsp



<https://www.linkedin.com/in/dspichtinger/>

CONTACT INFO