A Copyright Exception for Text and Data Mining

A mandatory and non-overridable copyright exception for text and data mining (TDM) for both commercial and non-commercial activity is needed. By modernising European copyright laws to support TDM, researchers will be enabled to make new discoveries and, in turn, to help drive science, competitiveness and innovation.

1 Why is a Copyright Exception Important?

Europe’s information infrastructure cannot support world-class research unless it is underpinned by an efficient and fit-for-purpose copyright framework.

The Commission is already concerned that European TDM-based research is falling behind other areas of the world, partly due to a lack of clarity around the legality of TDM. Research done in 2014 by the Lisbon Council indicates that this is, indeed, the case.

“U.S. nationals are responsible for almost half of all publications and patents in the text and data mining field. By contrast, European universities and scholars lag behind,” the Council reported.

2 What Type of Exception is Needed?

Any exception must be mandatory and should apply to commercial activity.

Mandatory - The best way to provide legal clarity is to implement an exception to copyright law which makes clear that all Europeans have the right to mine, as long as they have legal access to the content. The only way to achieve this is via a mandatory exception at a European level, which cannot be overridden by individual contracts.

Commercial and non-commercial - Since the objects of TDM are non-copyrightable (facts and/or data), there is no reason to limit the solution to non-commercial uses, when the very purpose of the reform is to modernise the current copyright framework.

Research does not recognise borders. Scientific research serving commercial purposes may be societally as important as strictly non-commercial research. Many research institutions receive funding from both commercial and non-commercial sources, and are mandated to engage in public-private partnership and knowledge transfer.

“Prolific use of TDM would add tens of billions of Euros in value to the EU’s aggregate GDP.”

-EC Expert Group TDM report

“There is a continuum from public research with no commercial purposes at all to public research with clear commercial purpose; setting a boundary would be artificial and make the positioning of a given research activity very difficult.”

-Science Europe

Why Won’t Licenses Work?

Licences do not provide the legal clarity needed to enable TDM at scale and across borders. Instead of enabling research, they create additional obstacles for access to research online and run contrary to the principle of a digital single market.

We must remember that the content of academic journals is only a small fraction of the content openly available and which researchers might want to mine (e.g. databases, blogs, digitised cultural heritage, video clips and voice recordings). In order to make breakthroughs, discoveries and world-firsts, researchers should be able to optimise data analysis at scale, across disciplines and formats. No licence or combinations of licences can ever facilitate the true potential scale of TDM.

What Role Does LIBER Play?

As the Association of European Research Libraries, we represent over 400 universities, national libraries and research institutions across 41 European countries. Our mission is to create an information infrastructure which enables world-class research. This can only happen when data is freely accessible, and when researchers have the tools and skills to analyse that data.

To this end, LIBER led the creation of The Hague Declaration. It calls for change to intellectual property law and access to technology, so that facts, data and ideas are equally accessible to everyone. Over 200 organisations and nearly 500 individuals have so far signed the Declaration.

LIBER also strongly supports Open Data and initiatives such as the European Commission’s current work towards the establishment of a European Open Science Cloud. We work with the Commission through our participation in several FP7 and H2020 projects, and by contributing to EU research forums, meetings and events.