

May 22nd, 2013



Open Knowledge Foundation



Dear Commissioners Barnier, Geoghegan-Quinn, Kroes and Vassiliou,

Letter from European Technology SMEs, Open Access Publishers and the Research Sector WG 4

Thank you for your letter dated 15th April 2013 concerning the issues raised by the university research sector and EU technology companies, in regards to their participation in the “Licences for Europe” Working Group 4 on Text and Data Mining (TDM).

We very much support the desire of the Commission to better understand the conditions that are currently hindering the adoption of TDM and subsequent exploitation of data. This is a clear sign that the Commission recognises the huge economic, medical and scientific importance of TDM.

We welcomed the orientation debate by the Commission in December 2012 and the subsequent commitment to adapt the copyright framework to the digital age. We believe that any meaningful engagement on the legal framework within which data driven innovation exists must, as a point of centrality, address the issue of limitations and exceptions. Having placed licensing as the central pillar of the discussion, the “Licences for Europe” Working Group has not made this focused evaluation possible. Instead, the dialogue on limitations and exceptions is only taking place through the refracted lens of licensing. This incorrectly presupposes that additional relicensing of already licensed content (i.e. double licensing) – and by implication also licensing of the open internet– is the solution to the rapid adoption of TDM technology.

This approach also undermines the considerable work that has been done in Europe to increase the amount of Open Access content available and encourage its exploitation. We are concerned, therefore, that our participation in a discussion that focuses primarily on proprietary licenses could be used to imply that our sectors accept the notion of double licensing of as a solution. It is not. We firmly believe that “the right to read is the right to mine”.

Furthermore, we would point to the urgent need to be competitive with the United States and the high-tech economies in Japan and South Korea, where legal barriers to TDM are far lower precisely because of the existence of copyright limitations and exceptions there.

As pointed out in our previous letter (dated the 26th of February, 2013), we would also like to highlight the issue of the composition of the Working Group. Though the Commission has expressed a genuine intention to make “Licences for Europe” an inclusive stakeholder dialogue, certain key participants have been absent from the beginning. Significantly, they include Small and Medium Enterprises (SMEs) in the European technology sector as well as pharmaceutical and other scientific industries who will turn the benefits of academic research into societal and economic gain. Data driven innovation is simply far too important for decisions to be made on such a basis.

In light of this, and in order to ensure a far more comprehensive evaluation of data driven innovation at an EU level, as well as to avoid conflict with the Open Access instruments being put in place under Horizon 2020, we requested the full involvement of DG Research and Innovation. We note, however, with regret that DG Research and Innovation has not

been given equal status in Working Group 4 alongside DG Connect, DG Internal Market and Services (MARKT) and DG Education and Culture (EAC).

Urgent steps are now needed to remove existing legal, technological and skills barriers that prevent TDM technology from being adopted. In order to do this in a way that best serves the public interest in facilitating new medical discoveries, creating new jobs in a vibrant EU technology industry, and maximising the investment of public money in research and innovation, we believe the Commission needs to conduct a rigorous and comprehensive evaluation exercise of TDM, its potential applications and the conditions required to encourage its adoption.

Given the above, and the fact that we need to prioritise our limited resources in a way which will best help the Commission to create an appropriate legal and environmental framework for data-driven innovation within the EU, we believe our contribution will be more productive outside the "Licences for Europe" framework. Therefore, we can no longer participate in the "Licences for Europe" process. We maintain that a vibrant internet and a healthy scholarly publishing community need not be at odds with a modern copyright framework that also allows for the barrier-free extraction of facts and data. We have already expressed this view sufficiently well within the Working Group¹.

We would like to reiterate our request for transparency around the "Licences for Europe" dialogue and kindly request that the following actions be taken:

1. That the list of organisations participating in all of the "Licences for Europe" Working Groups be made publicly available on the "Licences for Europe" website;
2. That the date of withdrawal for organisations leaving the process is also recorded on this list;
3. That it is made clear on any final documents that the outputs from the working group on TDM are not endorsed by our organisations and communities.

As made very clear at the meeting held with Commission representatives of DG CONNECT, MARKT, EAC and Research and Innovation on April 23rd 2013 we are deeply committed to working with the Commission on the removal of legal and other environmental barriers to TDM. We remain at the Commission's service to help in fact finding, facilitating introductions, or helping in any other way that would prove useful as part of a broader and all-encompassing Commission wide evaluation of TDM.

Yours sincerely,

Paul Ayris, President, The Association of European Research Libraries (LIBER)

Sara Kelly, Executive Director, The Coalition for a Digital Economy

Klaus-Peter Böttger, President, European Bureau of Library Information and Documentation Associations (EBLIDA)

Jonathan Gray, Director of Policy and Ideas, The Open Knowledge Foundation

Aleks Tarkowski, Communia

Brian Hole, CEO, Ubiquity Press Ltd.

David Hammerstein, Trans-Atlantic Consumer Dialogue

John McNaught, National Centre for Text Mining, University of Manchester

Prof Martyn Harrow, CEO, Jisc

Prof Dr Rainer Kuhlen, Chair, European Network for Copyright in support of Education and Science

¹ See extract from e-mail sent to Licences for Europe Chairs dated the 14th of March 2013_ [http://www.libereurope.eu/sites/default/files/Extract from email sent to L4E TDM chairs 140313_0.pdf](http://www.libereurope.eu/sites/default/files/Extract%20from%20email%20sent%20to%20L4E%20TDM%20chairs%20140313_0.pdf)