

## Impact of EU copyright reform on open science and innovation

As the proposed Directive<sup>1</sup> on copyright in the Digital Single Market passes under the scrutiny of the European Parliament and European Council, we **European open science stakeholders** strongly urge European legislators to support the rights provisions of a **copyright exception for text and data mining** (TDM) that is:

- **mandatory** and that **cannot be overridden contractually**
- valid for **any commercial or non-commercial** scientific research purposes
- valid for all those with **lawful access** (including both public interest research organisations\* and **businesses**) as defined in **Option 4** of the EC impact assessment SWD(2016) 301 final<sup>2</sup> and the Amsterdam Call to Action on Open Science.<sup>3</sup>

Science and technology drive modern society. The results of research must become **open to all organisations** capable of turning this knowledge into innovative solutions, economic prosperity, and solutions for environmental sustainability.

**As open science stakeholders** – namely, representatives of open-access publishers, citizen scientists, librarians and research organisations – we thus welcome reform of the European copyright law to support research based on **text and data mining (TDM)**, i.e. the automated computational analysis of digital content.

The legal provisions for TDM must be **updated** and **communicated with clarity** to allow the expansion of open science and to unlock its benefits for European scientific progress, technological innovation and economic growth, in particular for all those engaged in priority global challenges in areas such as health, agriculture and the environment.

We welcome the provision (**Article 3**) within the Commission's proposed **Directive**<sup>1</sup> for a **mandatory exception, that cannot be contractually overridden** to existing rights to allow research organisations to carry out TDM of content to which they have lawful access for the purposes of scientific research. However, **this exception should not be limited to non-profit/public interest research organisations**, as defined.\*

While we recognise the importance of research by public institutions, they do not (and should not) have a monopoly on knowledge discovery and innovation. This limitation is an artificial and arbitrary impedance that is detrimental to society, as research conducted for commercial purposes may be just as beneficial as non-commercial research. We believe this restriction is against the spirit of the **European Open Science Agenda**<sup>4</sup> in particular its action to *"Better take into account of public benefits, social interest and the situation of academics and innovative industries when reviewing the European copyright legislation"* and to *foster stronger relationships "between science and society and science and business actors to accelerate innovation"*.

The **Council of the European Union** has stressed the need for the Commission and Member States to support measures to allow all bodies, including **businesses and SMEs**, to mine results of publicly funded research to which they already have legal access.<sup>5</sup>

We therefore support the position that Europe should remove barriers to the goals of the digital single market and, rather than limiting copyright reforms to benefit public institutions only, should extend this benefit to **businesses and society** at large.

### References

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2. European Commission. Impact assessment on the modernisation of EU copyright rules. SWD(2016) 301 final. 4 Sept 2016. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016SC0301>
3. Netherlands EU Presidency. Amsterdam Call for Action on Open Science. April 2016. <https://english.eu2016.nl/documents/reports/2016/04/04/amsterdam-call-for-action-on-open-science>
4. European Commission Directorate for Research and Innovation. Draft European Open Science Agenda. Feb 2016. [http://ec.europa.eu/research/openscience/pdf/draft\\_european\\_open\\_science\\_agenda.pdf#view=fit&pagemode=none](http://ec.europa.eu/research/openscience/pdf/draft_european_open_science_agenda.pdf#view=fit&pagemode=none)
5. Council of the European Union. Council Conclusions on the transition towards an open science system (9526/16). 27 May 2016. <http://data.consilium.europa.eu/doc/document/ST-9526-2016-INIT/en/pdf>

\* Current definition: a university, a research institute or any other organisation the primary goal of which is to conduct scientific research or to conduct scientific research and provide educational services: (a) on a non-for-profit basis or by reinvesting all the profits in its scientific research; or (b) pursuant to a public interest mission recognised by a Member State; in such a way that the access to the results generated by the scientific research cannot be enjoyed on a preferential basis by an undertaking exercising a decisive influence upon such organisation

## Statement signatories

Organisation		Contact
	Frontiers <a href="http://www.frontiersin.org">www.frontiersin.org</a>	<b>Frederick Fenter</b> Executive Editor  Email: <a href="mailto:frederick.fenter@frontiersin.org">frederick.fenter@frontiersin.org</a>
 ContentMine	Content Mine <a href="http://www.contentmine.org">www.contentmine.org</a>	<b>Peter Murray-Rust</b> Director  Email: <a href="mailto:pm286@cam.ac.uk">pm286@cam.ac.uk</a>
 KNOWLEDGE WITHOUT BOUNDARIES	Electronic Information for Libraries (EIFL) <a href="http://www.eifl.net/programmes/open-access-programme">www.eifl.net/programmes/ open-access-programme</a>	<b>Teresa Hackett</b> Copyright and Libraries Programme Manager  Email: <a href="mailto:teresa.hackett@eifl.net">teresa.hackett@eifl.net</a>
	eLife <a href="http://elifesciences.org">elifesciences.org</a>	<b>Mark Patterson</b> Executive Director  Email: <a href="mailto:m.patterson@elifesciences.org">m.patterson@elifesciences.org</a>
	Know-Center <a href="http://www.know-center.tugraz.at">www.know-center.tugraz.at</a>	<b>Peter Kraker</b> Researcher  Email: <a href="mailto:pkraker@know-center.at">pkraker@know-center.at</a>
 Hindawi	Hindawi <a href="http://www.hindawi.com">www.hindawi.com</a>	<b>Paul Peters</b> CEO  Email: <a href="mailto:paul.peters@hindawi.com">paul.peters@hindawi.com</a>
	LIBER <a href="http://libereurope.eu">libereurope.eu</a>	<b>Susan Reilly</b> Executive Director  Email: <a href="mailto:Susan.Reilly@KB.nl">Susan.Reilly@KB.nl</a>
	Max Planck Digital Library (MPDL) <a href="http://www.mpdl.mpg.de">www.mpdl.mpg.de</a>	<b>Frank Sander</b> General Manager  Email: <a href="mailto:sander@mpdl.mpg.de">sander@mpdl.mpg.de</a>
	OpenAIRE <a href="http://www.openaire.eu">www.openaire.eu</a>	<b>Natalia Manolia</b> Project Manager  Email: <a href="mailto:natalia@di.uoa.gr">natalia@di.uoa.gr</a>
 Open Mining Infrastructure for Text & Data	OpenMinTeD <a href="http://openminted.eu">openminted.eu</a>	<b>Stelios Piperidis</b> Head of Department, ILSP/Athena RC  Email: <a href="mailto:spip@ilsp.gr">spip@ilsp.gr</a>
	Public Library of Science (PLOS) <a href="http://www.plos.org">www.plos.org</a>	<b>Richard Hewitt</b> Interim CEO  Email: <a href="mailto:rhewitt@plos.org">rhewitt@plos.org</a>

In order to facilitate a more comprehensive understanding of the open science landscape, the European legislator requires input from the open science community. If your organisation is interested in joining the list of open-science stakeholders who endorse this position statement on EU copyright reform, please contact Frederick Fenter, Frontiers Executive Editor: [frederick.fenter@frontiersin.org](mailto:frederick.fenter@frontiersin.org).