

Open Data

Database rights and licensing

Databases and their contents may fall under copyright protection. In addition, they may qualify for the *sui generis* database right – a right created by an EU directive. This right covers the database and its contents, lasts for 15 years, has many of the same sorts of rights granted as in copyright (copying, distributing, adaptation) and can cover the contents of a database (often factual data) even if it is extracted and reutilised in a new database.

Key points about the database right:

- Rights are over the ‘contents of databases’ and not just factual data.
- Unlike copyright, it clearly covers using the data apart from the database
- The maker of the database gets rights for 15 years, which can be extended by acquiring new database rights as long as there is new substantial investment in the database;
- Copyright can cover databases as well;
- The digital curation community should consider database issues both as a user and possible rightsholder.

What is open data?

Open data is the application of many the same principles and philosophies as open source and free software to data and databases; namely that the work should be available for further use and re-use by the public without the need to seek further permission from the rightsholder. For data and databases, this means the ability to integrate datasets from different providers; add, edit, and delete data records; copy and distribute the data and the database; and other related rights to make the integration and use of data run smoothly.

Why is an open data solution desired?

Databases and data can be covered by both copyright and database rights, therefore use of the data and database will usually require permission in the form of a licence. Negotiating individual licences wastes resources, especially when the rightsholder would like to share their data but has no easy way of doing so. Open source software licensing and open content licences have made great strides in developing stable, useful software and rich content available for the general public. The goal of bringing this approach to data has been sought after by many communities for a number of years.

Solution

The solution is to try to write a set of licences and related documents to try to openly licence data. Talis has been sponsoring work by myself (Jordan Hatcher) and Dr. Charlotte Waelde (Edinburgh) to develop a set of open data licences.

Several issues arise when looking at open data, including:

- *Attribution and notice requirements* – many open content licences require display of attribution information for the creator of the work or notice of the work’s licence.terms with each use of the work. Data integration projects can operate on a much larger scale than creative works, and so requiring attribution or notice could result in great practical difficulty by some communities.
- *Scope of protection* – Database copyright has many unclear issues about when it subsists and what it covers. The database rights covers many of these issues, but only applies within Europe. Contracts could help, but their enforceability in some situations remains in doubt. One legal solution that covers all of the relevant issues and remains enforceable creates some difficulty.

The result of the current work on open data licensing will be the **Open Data Commons** set of licences. We have produced a draft of a set of licences, but because of some ongoing events within the open data community, we are in the process of creating a new set of licences that will be available for comment very soon.

Benefits of open data for digital curation

Benefits to the digital curation community could include:

- As a *consumer* of data and databases, rights cleared for your use in advance.
- As a *producer* of data and databases, further use and re-use of your work, including improvements in the quantity and quality of your data.

We would very much appreciate your involvement in the ongoing conversation about open data. The goal of producing a useful and workable solution to open data licensing very much requires your input, thoughts, and suggestions.

Relevant links

Open Data Commons homepage <<http://opencontentlawyer.com/open-data/>>

Talis <<http://www.talis.com/>>

AHRC Research Centre for Studies in IP and Technology Law <<http://www.law.ed.ac.uk/ahrc>>

Jordan Hatcher <<http://opencontentlawyer.com>>

Other links of interest

Creative Commons <<http://creativecommons.org>>

Open Source Initiative <<http://www.opensource.org>>

Free Software Foundation / GNU project <<http://www.fsf.org>> <<http://www.gnu.org/>>

Open Knowledge Foundation <<http://www.okfn.org/>>

Open Definition <<http://www.opendefinition.org/>>

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