

ELRI Stakeholders Conference

# Copyright, Licenses and the Public Sector Initiative

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# Contents

- Legal context : **PSI Directives** (2003 / 2013)
- **Copyright** and Personal Data must be safeguarded
- Conditions of use & **Copyright licenses**

Legal context :

**PSI Directives (2003 / 2013)**

# Legal context

- **Directive 2003/98/CE RISP – amended by Directive 2013/37/EU →** harmonized rules for PSI reuses in all EU countries
  - National implementation laws
  - Direct effect of some provisions
- **COMMISSION NOTICE:** *Guidelines on recommended standard licences, datasets and charging for the reuse of documents (2014/C 240/01)*

# Legal context

- **Any document** (whatever its medium) “held by” **Public Sector bodies (State, regional, local administration)**
- Wide concept: written **texts, pictures, sound recordings, audiovisual recordings, databases, software**, etc.

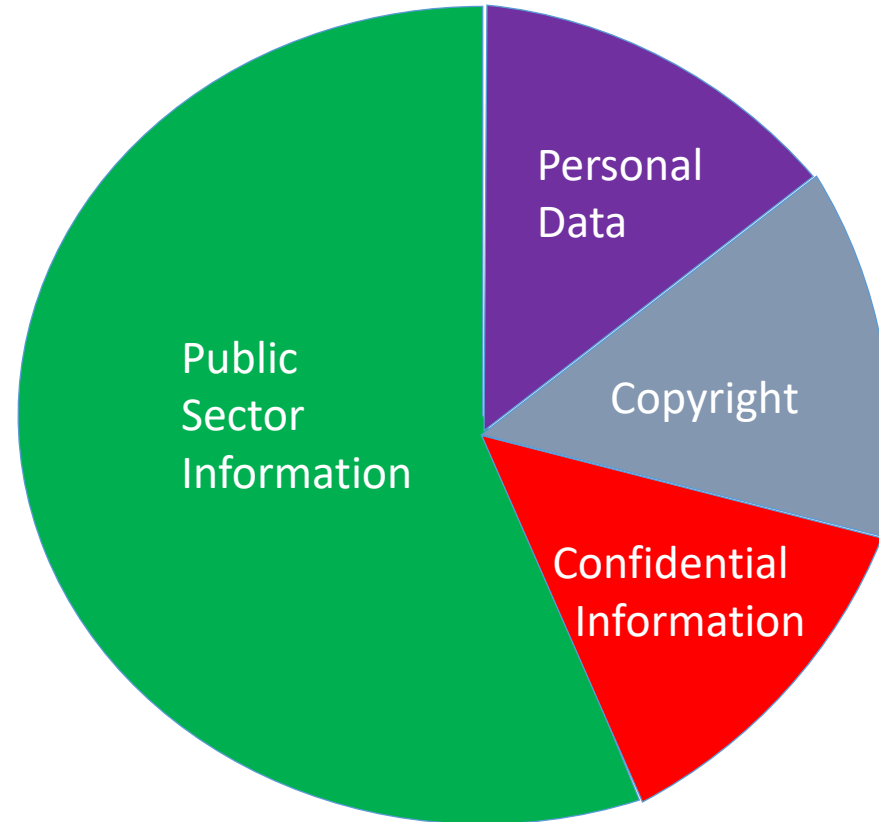
## Excluded:

- Beyond public task, public security, confidentiality, restricted access (legitimate interest), personal data, third party intellectual & industrial property
- Service broadcasters, research & educational orgs. –*except university libraries*), *cultural heritage institutions – except libraries, museums and archives*

# Legal context

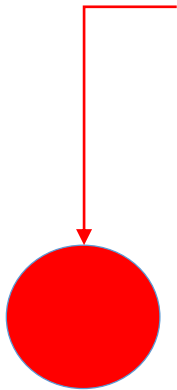
- ... Shall be **re-usable**
  - **for commercial and non-commercial purposes**
  - **In electronic-readable format (preferably)**
  - **Raw data or “datasets”** (*how far does “public task” go?*)
  - ✓ ***Safeguarding IP and personal data***
- 
- **Goal: to Foster investment & development of new services and products**
  - **Conditions:** equitable, proportionate, transparent and non-discriminatory
  - **Notice & Licenses** (standard licenses encouraged)
  - Licenses should **not unnecessarily restrict reuse, not restrict competition**
  - **Charging marginal costs & a reasonable return on investment**
- (e.g., libraries, museums, archives can also charge for digitisation and rights clearance)

# PSI structure



# Steps to open PSI for reuse

Exclude **confidential information** (restricted access), **public security**, etc .



# Steps to open PSI for reuse

## **PERSONAL DATA:**

Anonymize, dissociate, obtain informed consent for treatment, etc.

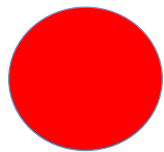


# Steps to open PSI for reuse

## **INTELLECTUAL PROPERTY :**

IP owned by Administration v.

IP owned by third party  
(previous licensing necessary)

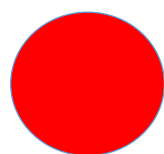


# Steps to open PSI for reuse

## CONDITIONS OF REUSE

Do not alter data  
Do not “sposorize”  
Do not alter metadata  
Mention source and date of update

## NOTICE



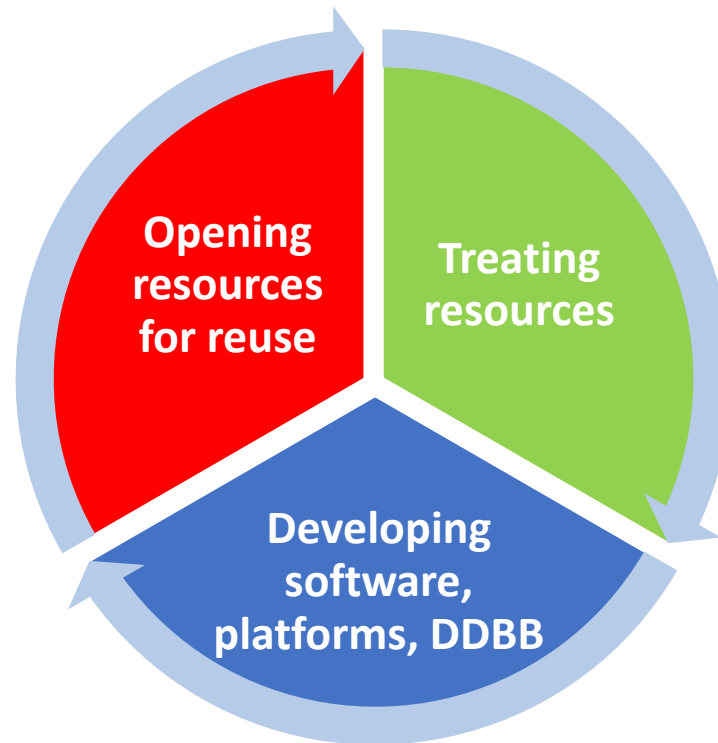
COPYRIGHT LICENSE

# PSI Reuse and Language Technologies

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## Platforms / BBDD Processors Resources

- PSI reuse
- IP
- Personal Data
- Confidential docs
- Transparency
- Competition
- Interoperability



## Public resources

- PSI reuse
- Interoperability
- IP
- Personal Data
- Confidentiality

## Private resources

- IP
- Personal Data
- Confidentiality

- Administrative contracts
- Interoperability
- Linguistic Policy
- IP
- Personal Data / Confidentiality

**Copyright**

must be safeguarded



Original Works



EXCLUSIVE RIGHTS



## Copyright questions

1. What ?
2. Who?
3. How?
4. How far? For how long?

**No EU © law ... Just national © laws!**

# EU harmonization

**Computer Programs** : Council Directive [91/250/EEC](#) (repealed) 14.05.1991

Directive [2009/24/EC](#) on the legal protection of computer programs, (Codified) 23.04.2009

**Rental & Lending Rights** : Council Directive [92/100/EEC](#) (repealed) 19.11.1992

Directive [2006/115/EC](#) on rental right and lending right and on certain rights related to copyright in the field of intellectual property, (Codified) 12.12.2006

**Satellite and Cable** : Council Directive [93/83/EEC](#) on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, 27.09.1993

**Term of Protection** : Council Directive [93/98/EEC](#) (repealed) 29.10.1993

Directive [2006/116/EC](#) on the term of protection of copyright and certain related rights (Codified) 12.12.2006;

***Ammended*** by Directive [2011/77/EU](#) (term of protection of phonograms), 27.09.2011

**Databases** : Directive [96/9/EC](#) on the legal protection of databases, 11.03.1996

**Resale Right (*droit de suite*)** : Directive [2001/84/EC](#) on the resale right for authors of original works of art, 27.09.2001

**Copyright in the Information Society**: Directive [2001/29/EC](#) on the harmonization of certain aspects of copyright and related rights in the information society 22.05.2001

**Enforcement of IP**: Directive [2004/48/EC](#) on the enforcement of IP rights. 29.04.2004

**Orphan Works**: Directive [2012/28/UE](#), on certain permitted uses of orphan works, 25.10.2012

**CMO and Music online**: Directive [2014/26/EU](#), on collective rights management and multi-territorial licensing of rights in musical works for online uses

**Marrakesh Treaty**: Directive 2017/1564/UE, on print-disabled and visually impaired (Marrakesh Treaty) 13.09.2017 // **Regulation 2017/1563 on cross-border exchange of AFC**

# But ... national © laws!

**1. What?** Works, recordings, performances, software, DDBB (of Works or data) ... *A Minimum creativity is enough*

**Any other? (statutes, court rulings, administrative reports...)**

VIP: *Data, info, methods ...not protected!!!*

**2. Who?** Author (creator), Artists, Producers...

VIP: “presumed” transfer of rights to employer, contracts, ...

**3. How?** Exclusive rights of Reproduction, Distribution, Communication to the public (making available to public), **Transformation (Derivative Works)**

**4. How far? For how long?**

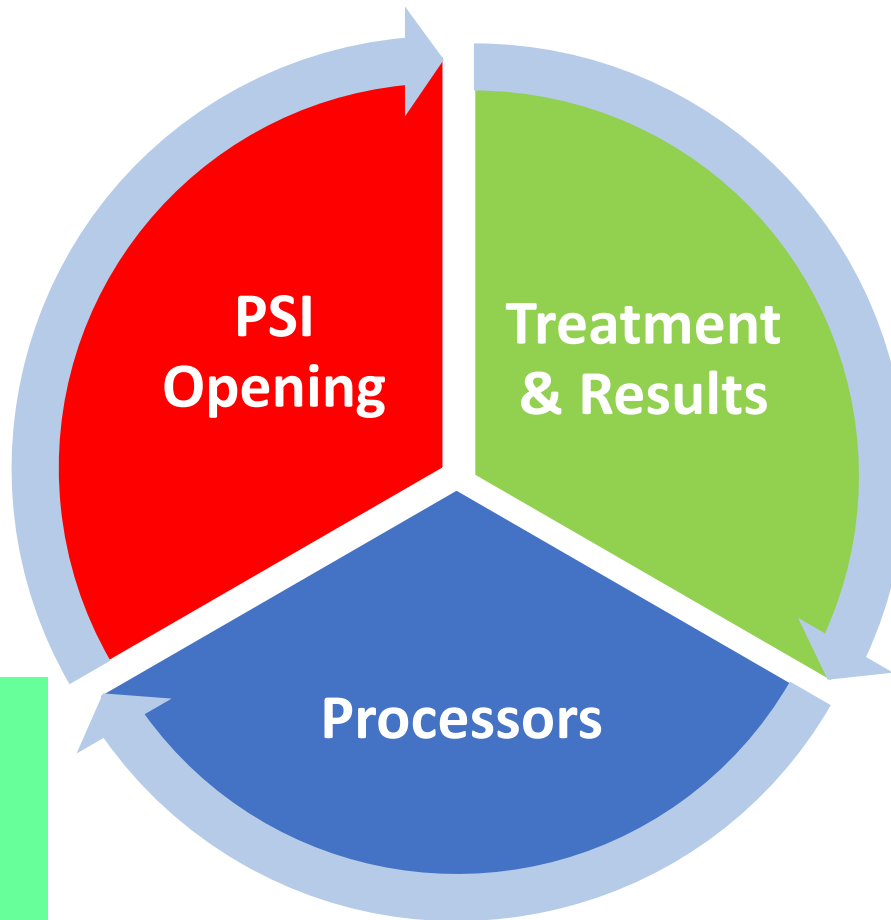
*70 years post mortem auctoris (PUBLIC DOMAIN),*

**E&L (quotations, information, teaching & research, ... and TDM / Machine reading?)**

***→ If a resource is protected & acts not permitted by law (E&L):  
licensing necessary***

# PSI OPEN / Reuse projects

- New Datasets
- Compilations
- Translations
- ...
- Derivative works?  
(who owns AI outputs?)
- Open or “Locked”
- DRM
- PSI



- Works
- Performances
- Recordings
- Data (unprotected)
- Datasets
- Works in PD
- Digital or Digitized
- Open or “Locked”
- “Treated” (tagged) **CORPUS**
- **Memory (.TMX)**
- **Terminology, Glossaries (.XML)**
- **Translated text**

- E&L? Art.5.1 ISD
- No E&L for AI
- If any ... DRM
- No fair use?
- Licensed (EULAs)
- CMOs licensing?
- Open licensing
- Conditions of use

- Software protected by ©
  - Protection of (functional) algorithms?
  - Databases
- Art.5-6-7 CPD : Mandatory exceptions

- E&L? Art.5.1 ISD
- No E&L for AI
- If any ... DRM
- No fair use?
- Licensed (EULAs)
- CMOs licensing
- Open licensing
- “Terms of service”

# Text and Data Mining?

Can I use ANY accessible resource to develop PTL projects?

## ***Proposal Directive © Digital Single Market***

### ***Art.3 : Mandatory Exception for TDM***

- *lawful access*
- *For scientific research purposes only*
- *By research organizations and universities only*
- *Art.6: it cannot be contracted-out ... but DRM apply!*

### ***Art.3a : Optional E&L for TDM***

- *Lawful access*
- *For other purposes / organizations?*
- *Provided that no DRM or license prohibits it*

Compare with USA: **fair use!**

Under US © Act, machine reading (for translation purposes) is permitted as fair use!

AG v. Google (SDNY, 14 Nov. 2014), confirmed 804 F.3d 202 (2d Cir. 2015) – based on *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569 (1994)  
AG v. HathiTrust, 755 F.3d 87 (2d Cir. 2014)

# Conditions of use & **Copyright licenses**

# Conditions & Licenses

- **NOTICE / General conditions : LEGAL TERMS**

[AVISO LEGAL RD1495/2011](#)

- **Standard © Licenses**

- Creative Commons, GPL, etc
- Specific (national) Licences (*Copyright Crown*, etc)

*PSI Re-use Directives: Licenses should **not unnecessarily restrict reuse, not restrict competition***

- **Specific © License (previously authorised)**

- Non-digital documents, 3rd party IP, privacy, etc.

General conditions & © License  
(AVISO LEGAL)

*RD1495/2011 (Anexo I)*

- No desnaturalizar.
- No “esponsorización”
- No alterar metadatos
- Citar fuente y fecha actualización
- Cesión de derechos PI (amplia, gratuita, no excl.)

*Esta autorización conlleva, asimismo, **la cesión gratuita y no exclusiva** de los **derechos de propiedad intelectual**, en su caso, correspondientes a tales documentos, **autorizándose** la realización de actividades de **reproducción, distribución, comunicación pública o transformación**, necesarias para desarrollar la actividad de reutilización autorizada, **en cualquier modalidad y bajo cualquier formato, para todo el mundo y por el plazo máximo permitido por la Ley.***

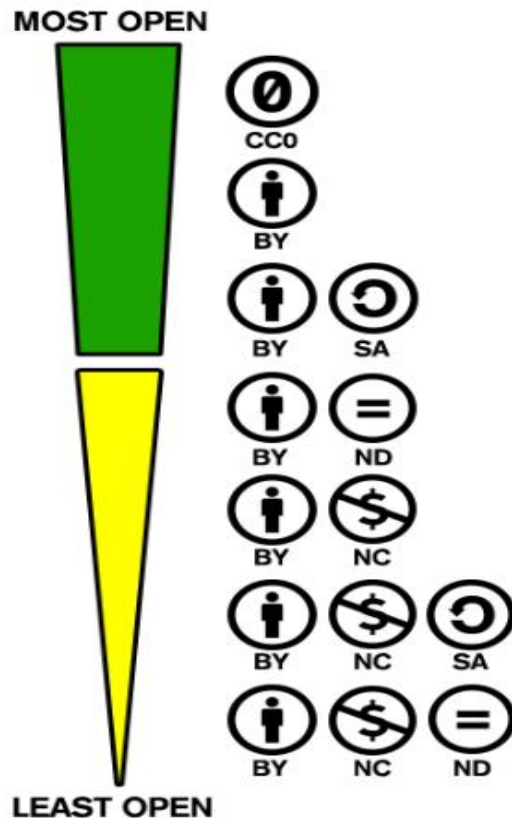
# Licences CC

## *Licences Creative Commons*



- © licenses
- Of protected Works and recordings...
- Should not apply to data (except *sui generis*), public domain
- CC licenses allow restrictions
  - ✓ “Copyleft” obligation (SA) -- GPL always copyleft !!
  - ✓ Prohibits transforming / derivatives (ND)
  - ✓ Prohibits commercial uses (NC)
  - ✓ Prohibits using DRM/TPM (standard license)

# Licences CC



Best CC licenses for PSI reuse:  
CC-BY



CC0 (*public domain dedication*)



**NOT TO BE MISTAKEN WITH:**



(term or  
protection expired)

# Free Software / Open Source

- **GPL** always Copyleft (SA)
- **EUPL** recommended for PSI software  
<https://eupl.eu/>

Commission Implementing Decision (EU) 2017/863 of 18 May 2017 updating the open source software licence EUPL to further facilitate the sharing and reuse of software developed by public administrations (OJ 19/05/2017 L128 p. 59–64 )

Thanks!

