

Kluwer Copyright Blog

Our Blogpoll on a Text & Data Mining Exception: the results are in...

Lucie Guibault (Schulich School of Law) · Sunday, December 6th, 2015

...and they show overwhelming support for the introduction of a mandatory copyright exception for text and data mining for both commercial and non-commercial purposes.

Back in September, we launched a [blog poll](#) on the potential introduction of a mandatory text and data mining exception. We asked our blog readers their views on the following statements:

1. *An exception on copyright is necessary to allow TDM for research purposes- Yes/No*
2. *Any research purpose should be allowed under this provision, whether commercial or non-commercial – Yes/No*
3. *Contractual parties should not be able to override this exception by contract – Yes/No*
4. *The database directive should be abolished – Yes/No*

One would naturally expect the research community to be strongly in support of a TDM exception, as evidence suggests that Europe's strict copyright rules have a negative impact on text and data mining activities in academic research compared to other countries with more flexible copyright regimes (see [this article](#)). However, given the very diverse readership of our blog, it is very interesting that respondents were still strongly in favour, with over 85% supporting the introduction of such an exception. Perhaps even more surprisingly, 70% of respondents believe that any research purpose should be allowed – commercial or non-commercial. This supports the suggestion in my September article that a useful basis for a TDM exception could be found in article 5(3) of the Computer Programs Directive (2009/24/EC), which similarly does not distinguish between commercial and non-commercial use. The need for a mandatory exception on data mining was further supported by the response to our third question – over 85% of respondents believe that it should not be made possible to override such an exception by contractual terms.

Our final question related to the database directive. I postulated in my September post that one solution to the problem of how to introduce a TDM exception to the database right would be the fairly extreme step of repealing the directive altogether. Notably, this suggestion also found support amongst our readers, with 66% agreeing that the directive should be abolished. Confirmation, if any were needed, that this directive has not achieved what legislators had originally hoped it would.

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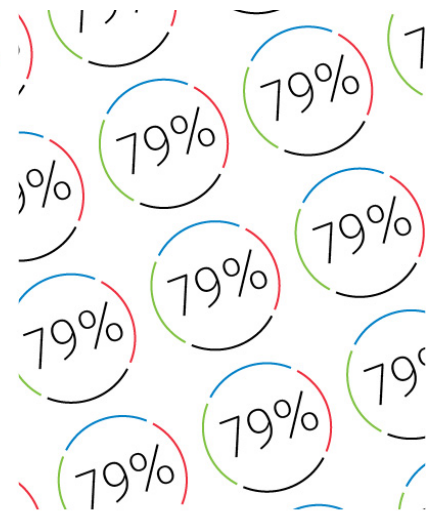
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