

DIGITALEUROPE's Position on Open Access to Scientific Publications and Open Research Data

Brussels, 17 March 2016

In view of the focus of the Netherlands Presidency of the EU in the first half of 2016 on Open Science, and more particularly on open access to scientific publications from publicly funded research and on open research data, DIGITALEUROPE would like to re-iterate some key points from its earlier positions^{1,2,3} on these two issues and update them to reflect recent policy developments.

Open access to scientific publications

To achieve wider use of the results of publicly funded research, we support the principle of open access (either via the “gold”, “green”, or “hybrid” route⁴) to scientific publications. After the successful pilot on open access to scientific publications in selected parts of the Seventh Framework Programme, we welcome the approach⁵ taken by the European Commission in Horizon 2020, which extends the obligation to provide open access to scientific publications to the entire programme without affecting the freedom to choose whether to publish or not, the commercial exploitation of research results and the possibility of protecting those results by means of intellectual property or confidentiality.

Open research data

However, depending on the specific case at hand, granting open access to research data is a different matter. While acknowledging the potential benefits of making research data from public-sector research more widely available, caution is needed to avoid hampering collaboration between public and private actors along the innovation chain. In particular, the protection of intellectual property and confidential information of private partners always needs to be ensured, as well as privacy and security.

Furthermore, open access should not apply by default to data from private-sector R&D performed in public programmes for research and innovation, nor from public-sector research performed in collaboration with

1 http://www.digitaleurope.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=149&PortalId=0&TabId=353, p. 7.

2 http://www.digitaleurope.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=825&PortalId=0&TabId=353, p. 1-2.

3 http://www.digitaleurope.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=908&PortalId=0&TabId=35, p. 5.

4 https://ec.europa.eu/research/science-society/document_library/pdf_06/era-communication-towards-better-access-to-scientific-information_en.pdf, p. 5.

5 https://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/oa_pilot/h2020-hi-oa-pilot-guide_en.pdf.

industry or (co-) financed by industry. In those cases, a tailor-made approach is needed, in which public and private partners decide on a voluntary and case-by-case basis whether access can be given, and if so, to which data and to whom.

Failing to do so would endanger the interest of private parties in participating and/or co-investing in public programmes for research and innovation. As companies participating in such public programmes carry a substantial part⁶ of their R&D costs themselves, it is reasonable that they expect a return on their investments. Widely sharing all data from a research project could destroy the competitive advantage that consortium partners have gained in the project and negatively impact the worldwide competitiveness of Europe. Therefore, to ensure adequate private-sector participation, it is essential to maintain an opt-out provision as in the current pilot on open research data also in the remainder of Horizon 2020, its successor and other public programmes for research and innovation at European, national and regional levels.

FAIR research data

In policy debates on open access it is often argued that research data should be FAIR:

1. Findable,
2. Accessible,
3. Interoperable,
4. Re-usable.

Unfortunately, detailed explanations of these four principles are often lacking, or differ substantially between various sources^{7,8,9}. Whereas the FAIR approach in itself seems reasonable at first sight, it may not always sufficiently safeguard the interests of private parties. For example, in the case of trade secrets or confidential information, companies might not even want their data to be findable and accessible, let alone re-usable.

Sharing research data

Granting open access to research data is sometimes referred to as “sharing” research data, for example in two recent reports^{10,11} on open access, which by the way each provide an excellent overview of the debate on open access. DIGITALEUROPE fears that the notion of “sharing” may convey the false expectation of shared

6 Although Horizon 2020 grants may reach a maximum of 100% of total eligible costs - consisting of direct costs increased by a flat rate of 25% to cover indirect costs - in practice funding rates for companies are often much lower than 100% of their actual costs, as their actual indirect costs usually are much higher than 25% of their direct costs, and grants for innovation actions are limited to a maximum of 70% of eligible costs (instead of 100%). In national or regional programmes for research and innovation the EU rules on state aid for R&D&I limit funding rates for industrial R&D to 25-80% of eligible costs (depending on the type of R&D, the size of the company and other circumstances); in practice, national authorities often limit their grants to lower percentages than allowed by the state aid rules.

7 <http://www.dtls.nl/fair-data/>.

8 <https://www.force11.org/group/fairgroup/fairprinciples>.

9 <http://www.fairdata.org.uk/10-principles/>.

10 <http://data.consilium.europa.eu/doc/document/ST-1202-2016-INIT/en/pdf>.

11 <http://english.awti.nl/documents/publications/2016/01/20/summery-dare-to-share>.

ownership. This is undesirable, not only because shared ownership may not do justice to the legitimate interests of parties involved, but also because the question^{12,13} of ownership of data still remains to be resolved. Furthermore, “sharing”, like “open”, might be confused with “free of charge”, another misconception.

Optimal re-use of research data

DIGITALEUROPE very much welcomes the approach¹⁴ chosen by the Netherlands Presidency to refer to “optimal re-use of research data”, instead of (unconditionally) open research data. This wording, which reflects the understanding that not all data from all research projects can be open, should provide enough leeway to accommodate our above concerns, just like the Commission’s approach⁵ in the pilot on open research data in Horizon 2020: “as open as possible, as closed as needed”.

Summary

In summary, DIGITALEUROPE is in full support of open access to scientific publications. In principle, it is also in favour of open research data (or rather optimal re-use of research data), provided that

- granting access remains voluntary, with the possibility to opt out,
- the protection of intellectual property, confidential information and data (e.g. privacy) is safeguarded, and
- applicable security rules (e.g. export controls) and the legitimate commercial interests of private partners are respected.

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12 <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0192&from=EN>, p. 15.

13 http://www.digitaleurope.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&entryID=1085&PortalId=0&TabId=353, p. 6.

14 <http://english.eu2016.nl/latest/events/2016/04/04/open-science-conference>.

ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies.

DIGITALEUROPE ensures industry participation in the development and implementation of EU policies. DIGITALEUROPE's members include 60 corporate members and 37 national trade associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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