

TDM and Collective Licensing

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Online Workshop

Copyright Data Improvement in the EU – Towards Better Visibility of European
Content and Broader Licensing Opportunities in the Light of New Technologies

What is the scope of a potential
(collective) licensing scheme for TDM?

It's... tricky

TDM, art. 2(2) CDSM

‘text and data mining’ means any automated analytical technique aimed at analysing text and data in digital form in order to generate information which includes but is not limited to patterns, trends and correlations

TDM, 2(2) CDSM

3 CDSM
TDM Scientific Research
(if conditions met)

5(3)(a) InfoSoc

Lawful access (R14)
- Contractual arrangements + freely accessible online
(art. 3 InfoSoc case law CJEU?)

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TDM Scientific Research
(if conditions met)

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Lawful access (R14)
- Contractual arrangements + freely accessible online

4 CDSM
TDM general
(if conditions met + no reservation)

5(1) InfoSoc

Lawful access (Rs 14, 18) + Express Reservation?
- CJEU, VG *Bild-Kunst* (content publicly available online)

TDM, 2(2) CDSM

non-(c) TDM (R9)

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TDM Scientific Research
(if conditions met)

5(3)(a) InfoSoc

Lawful access (R14)
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4 CDSM
TDM general
(if conditions met + no reservation)

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TDM, art. 2(2) CDSM

non-(c) TDM (R9)

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5(1) InfoSoc

4 CDSM
TDM general
(if conditions not met +/-or express reservation)

Potential Licensing Space
(R18 CDSM)

TDM Collective Licenses?

Requirements

- Legally relevant reproduction & extraction
- Express reservation under 4(3) CDSM, incl. 'machine readable' (TDM – Metadata)

Scope

Acts: Reproductions and extractions, 4(1) CDSM

Purpose: TDM, (2(2) CDSM, incl. commercial

Subject matter and rights:

- Database Dir.: 5(a) and 7(1)
- InfoSoc Dir.: 2
- Software Dir.: 4(1)(a) and (b)
- DSM Dir.: 15(1)

Exclusions:

- 3 CDSM (TDM scientific purposes)
- 5(1) and 5(3)(a) InfoSoc

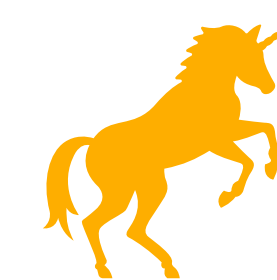
Types of CRM

- Probably only voluntary, incl. CLEE (art. 12 CDSM)
- Opt out 4(3) + R.17: no compensation for both E&Ls?

Challenges

CLEE?

- 1) Territoriality of voluntary CRM (MTL of little use)
- 2) Mandate - art. 5(7) CRM Dir.?
- 3) Repertoire?



Existential (normative) question

To what extent is (or should) a (c) license (be) required for TDM?

- see Strowel & Ducato 2021 (scope vs infringement: does TDM use works as “expressive work?”)

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