

openMINTED

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To be, or not to be, compatible?

The licence interoperability dilemma in a TDM world

FORCE2017

The legal constraints in a

TDM world Legal barriers to Text and data mining (TDM)

Not only IPRs but also licence agreements

Resources you wish to mine could be protected by the law, including but not limited to copyright, *sui generis* database right and contracts

Hence, either you get a **permission** to TDM, usually by means of a licence or you can benefit from a copyright **exception**

However, (additional) **contractual** limitations to TDM (e.g. for non-commercial purpose only) may apply

Copyright law

Sturdy IPRS restraints

If **reproduction** of resources protected by copyright is implied in the TDM process, it should be authorised by the right holder

Sui generis database (SGDB) rights

Extraction and re-use of all or substantial parts of a protected DB (made with substantial investment in obtaining, verifying or presenting contents) and reiterated extraction/re-use of insubstantial parts needs to be authorised by the DB owner

Exceptions

A fragmented range but a plan for a dedicated TDM exception in the EU (Art. 5 Directive 2001/29/EC) and few good (not perfect) national MS examples (e.g. UK CDPA 1988, s. 29A)

Contractual confusion

When the right holder **authorisation** is required to perform otherwise restricted acts on protected resources, **license agreements** are often the means to facilitate it, although proliferation of different licensing schemes may even counteract it

Lack of clarity and standardisation of licensing terms, in fact inevitably leads to inconsistency and **incompatibility** of such terms

Recommending some more standardised licences, such as Open Access (OA) public licenses (PL), may help contrasting the phenomenon, but it is not enough

The

Compatibility/Interoperability

License compatibility - The condition or state in which more licenses can **co-exist** and licensed resources be **combined**

License interoperability - The capability of a license to function, **interact** or otherwise operate with other licenses.

In the TDM world, disinformation on and customisation of (poorly drafted) licences is one of the main problem

Combination of TDM resources under different and clashing terms is made extremely difficult, if not impossible, if:

License choice/selection is complex or absent;

License interaction is partial or otherwise limited.

What OpenMinTeD does for interoperability

License incompatibility represents a **tangible legal barrier for TDM** as it makes effective and **interoperable** use of resources through TDM extremely limited

Through its WG3 Working group on IPRs and licensing, **OPMT** analyses the **legal barriers to TDM** and identifies the legal tools to support TDM activities and services, focusing on two main aspects:

Legislation, supporting adequate (EU and national) legislative intervention to foster TDM, and **Licensing**, recommending the most suitable licenses, but also designing and promoting specific **compatibility tools**.

The Compatibility matrix (beta version)

The aim of the Matrix is to provide **guidance** to users wishing to undertake TDM activities and overcome the ambiguity of the current setting.

The **Matrix**, considered (a) the **resource/s** and (b) the **license/s** used, helps determining (c) whether there is **compatibility or not**.

It should also help you share/distribute your resources under the appropriate license, providing an understanding of the legal implications of **choosing** one or the other.

Remember, no licence means “all rights reserved”

The Compatibility matrix (extract)

← → ↻ 🏠 openminded.github.io/releases/license-matrix

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OpenMinTeD WG3 Compatibility Matrix_expanded

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DISCLAIMER
 This is a Beta version of the OpenMinTeD Compatibility matrix, which is undergoing final testing before its official release. Do not rely on the information therein provided, which may be incorrect or incomplete and, in no circumstances, should be used for legal purposes. The scope of the Beta version is to obtain feedbacks. Any comments or suggestions can be made by accessing the questionnaire: <https://www.surveymonkey.co.uk/r/V2VBQC7>

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<u>CC0</u>	Yes	Yes	Yes	Yes	No	No	No	Yes
<u>CC BY 4.0</u>		Yes	Yes	Yes	No	No	No	Yes
<u>CC BY-NC 4.0</u>			Yes	No	No	No	No	Yes
<u>CC BY-SA 4.0</u>				Yes	No	No	No	No
<u>CC BY-ND 4.0</u>					No	No	No	No
<u>CC BY-NC-ND 4.0</u>						No	No	No

The Compatibility matrix: how it works

The **Matrix** assesses the possibility that the resources (content or software) licensed under the licences considered may be combined and **their combination feasibly result in a derivative work**. The matrix also assesses whether, considering specific clauses (e.g. NC or SA), there is likely to be a **conflict** of licensing terms.

A **green Yes** (full compatibility) when licensing terms allow derivative works and no further restrictions apply

A **yellow Yes** (compatibility under some conditions) when for derivative works to be allowed some restrictions apply

The Compatibility matrix: disclaimer



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It should **not** be regarded as giving **legal advice**.

The scope of the Beta version is to obtain **feedbacks**: comments or suggestions can be made by accessing the linked documents in the matrix and via a [questionnaire](#). **We want**

Thank you

Any questions?

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