



IG Legal Interoperability
Breakout 7
11th RDA Plenary Meeting
Berlin
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RDA-CODATA IG on Legal Interoperability: Next Step, Case Studies

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Implementation Guidelines for the Legal Interoperability of Research Data



1. Facilitate the lawful access to and reuse of research data.
2. Determine the rights to and responsibilities for the data.
3. Balance the legal interests.
4. State the rights transparently and clearly.
5. Promote the harmonization of rights in research data.
6. Provide proper attribution and credit for research data.

- **Joint CODATA-RDA Interest Group on Legal Interoperability.**
- Builds on work done in the context of the GEO Data Sharing Working Group.
- Set of principles to help ensure the fewest possible legal barriers relating to IP to sharing research data.
- Implementation guidelines offer high level guidance on steps to take to reduce legal barriers to data reuse.
- Result of lengthy consideration by the IG and two strenuous rounds of peer review.
- **Final version of the guidelines:**
<https://doi.org/10.5281/zenodo.162241>



Next Steps: Case Studies



- Case studies identified in Montréal
- Case studies in Berlin
- Themes
- Preparation towards a session at International Data Week in Botswana.
- Develop a set of case studies for publication in an appropriate journal (e.g. Data Science Journal <https://datascience.codata.org/>)



Case Studies from Montréal



- Session description at <https://www.rd-alliance.org/ig-rdacodata-legal-interoperability-rda-10th-plenary-meeting-open>
- **Barriers to implementing legal interoperability principles for data in the context of multinational, multifunder, transdisciplinary projects:** Carrie Seltzer, Belmont Forum
- **Reusable data for biomedicine: how open is open? a data licensing odyssey:** Melissa Haendel, Oregon Health & Science University, Portland OR, USA
- **A Licensing Model and Ecosystem for Data Sharing: Perspectives from the Northeast Big Data Innovation Hub (USA):** Jane Greenberg, Metadata Research Center, Drexel University, Philadelphia, USA



Case Studies in Berlin



- Session description at <https://rd-alliance.org/ig-rdacodata-legal-interoperability-rda-11th-plenary-meeting>
- **Principles and Practices for Enabling the Use of Open Data, a Case Study:** Robert R. Downs, PhD, Center for International Earth Science Information Network (CIESIN), The Earth Institute, Columbia University, Palisades, NY, USA
- **Importance of Understanding and Documenting Legal Interoperability for FAIR Data:** Shelley Stall, American Geophysical Union, Washington, DC, USA
- **Selecting an appropriate License for Open Data. The GEOFON experience:** Javier Quinteros, Helmholtz-Centre Potsdam - GFZ German Research Centre for Geosciences, Potsdam, Germany
- **Legal interoperability as part of the Helmholtz Centres' Research Data Strategies:** Christoph Bruch, Senior Advisor on Strategy, Helmholtz Open Science Coordination Office, Potsdam, Germany



International Data Week (SciDataCon) Session



Challenges in Achieving Legal Interoperability of Research Data

Session Abstract

- In September 2016 the RDA-CODATA Legal Interoperability Interest Group (IG) published its paper, “Legal Interoperability of Research Data: Principles and Implementation Guidelines” (<https://doi.org/10.5281/zenodo.162241>). Legal interoperability of research data is a key requirement of open science and FAIR data. In 2017-18, IG has been interacting with groups engaged in the development and/or implementation of research data policies for specific data communities and organizations. Incorporating the IG’s principles and guidelines into these policies remains a challenge for various reasons. **The IG has decided to analyze these challenges through a series of case studies, in order to better characterize both progress and constraints experienced by data communities and provide a basis for improving the principles and guidelines.**
- This session will build on and expand the case studies presented in previous plenaries, with the aim of developing a formal special issue for potential publication in the Data Science Journal or another open access journal. It will also serve as an opportunity to highlight issues, identify new case studies, and obtain feedback on legal interoperability challenges from the perspective of developing country scientific communities.
- Submit case studies at <https://www.scidatacon.org/IDW2018/submit/>



Emerging Themes



- The RDA-CODATA IG's Principles and Guidelines on legal interoperability of research data are focussed on ip-law issues and advocate maximum openness.
- Individual researchers or whole research organizations are regularly confronted with a situation in which they would like to make research data available for third parties while protecting certain interests at odds with full openness.
- RDA-CODATA IG legal interoperability intents to learn more about **barriers against openness / legal interoperability** as a basis to develop suggestions to maximize openness and legal interoperability possible in given circumstances.



Issues influencing the ability to realize openness and legal interoperability (1)



- Limitations because of **statutory regulations** like
 - Data protection
 - National security
- **Ownership / right to control**
 - Uncertainty about who has the right to decide what may be done with a certain data set.
 - Jurisdictional conflicts over what components of a dataset or datum are eligible for copyright protection
- **Liability**
 - Need to indemnify data depositor from legal responsibility
 - Need to place disclaimers on data quality or completeness



Issues influencing the ability to realize openness and legal interoperability (2)



- Reservation towards openness because **conflicts with business models**
 - Attribution - often important to prove relevance/usage of research results
 - Resistance to CC0 public domain waiver, which removes attribution as a legal requirement and places it as responsible research/ethical norm
 - Misunderstanding about how CC0 converts to CC-BY in jurisdictions with moral rights provisions in their copyright statutes
- Reservation towards openness because **conflicts with other motivations to control usage**
 - Assertion of right to review and prohibit 'unacceptable' downstream uses of data
 - Assertion of right to be notified of downstream uses of data
 - Assertion of right to authorship for downstream uses of data



Issues influencing the ability to realize openness and legal interoperability (3)



- **Lack of knowledge concerning licenses**
 - Misunderstanding about how CC0 converts to CC-BY in jurisdictions with moral rights provisions in their copyright statutes
 - Confusion about how different open licenses interoperate when data from different sources are combined
 - Actionability of CC-BY-NC given legal uncertainty as to what constitutes 'commercial use'



Issues influencing the ability to realize openness and legal interoperability (4)



- **Conflicting policies**
 - Decisions concerning openness are often taken in circumstances with influences by several players like
 - Funder
 - Employer
 - Research community
 - Individual interests
 - The situation can be further complicated if one or several players have a lack of understanding concerning who may decide what and how to achieve a desired outcome.



Resulting Questions / Thoughts



- The diverse requirements concerning the shaping of licenses according to the specific needs resulting from the above described circumstances poses the question how this issues can be solved
- CC License Suite is not an adequate answer.
- Individual Licenses are no convincing solution either as they require legal expertise that is often not at hand and, they are not machine readable and they would would “contaminate” other data sets if combined.
- Instead of shaping the licenses one could aim at changing the circumstances. Is this realistic?
- A third approach would a more complex set of licenses made up of machine readable components. The development of such a license toolbox would take time as these license would not only need to developed, they would also need bread acceptance in the research community on a global scale.



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Thank you for your attention!

Slide Credits: Geoffrey Boulton, Jane Hunter, John Broome, Ernie Boyko, Devika Madalli, LI Jianhui

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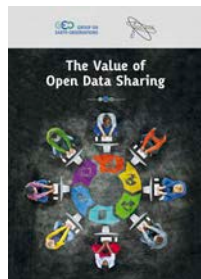
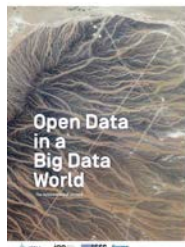
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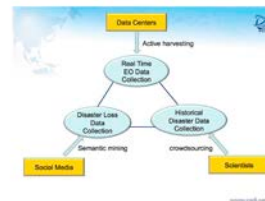
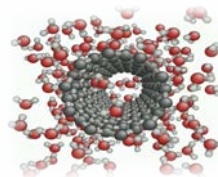
CODATA Prospectus:

<https://doi.org/10.5281/zenodo.1167846>

Principles, Policies and Practice



Frontiers of Data Science



Data Science Journal



CODATA 2017, Saint Petersburg 8-13 Oct 2017

Capacity Building



Gaborone, Botswana: 22-26 October 2018

