Track 2 – summary
Legal interoperability and open access

e-IRG workshop

Dublin, 23 May 2013

Fotis Karagiannis, e-IRGSP3

RI-261563

Participants

- Chair: Paul Uhlir
- Presenters: Andrew Cormack, Pawel Kamocki, Ville Oksanen
- Contributors: Nils Dietrich (OpenAIRE), Catherine Doldrina (GEO), Kostas Glinos (EC), Stefan Janusz (e-ScienceTalk), Leif Laaksonen (iCORDI-RDA-EU), Damien Lecarpentier (EUDAT), Roar Skålin (Norway Research Council), Peter Wittenburg…
- At least 5 lawyers!

Background – Related activities

- **Group on Earth Observations (GEO)** – Data Sharing Working Group, Legal Interoperability Sub-group
  - Although GEO-related, can be generalized; open access focus
  - Summary White Paper distributed in paper: Legal options for the exchange of data through the GEOSS DATA-CORE

- **CODATA group** – Has a Data Policy committee and many task groups
  - Bottom up research data policy and practice NGO

- **RDA-CODATA Interest Group** – Legal interoperability of data
  - Bottom up also; Broader than the others; Research perspective; Focus: Copyright protection; Private and Public law; Case studies; Bibliography; Output in the next 18 months: White Paper on principles, best practices; Work on top of GEO
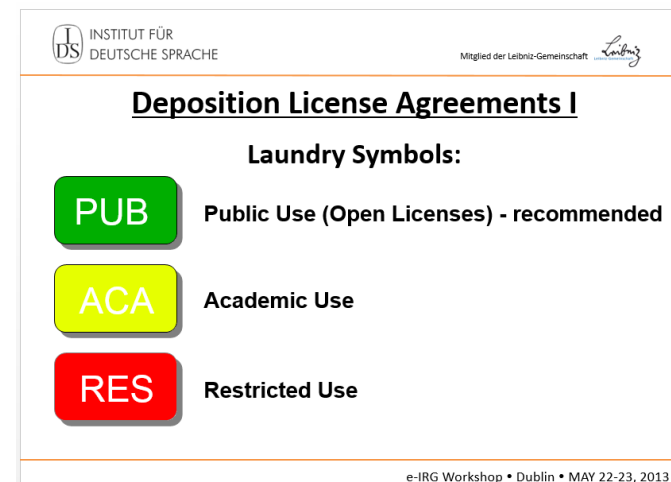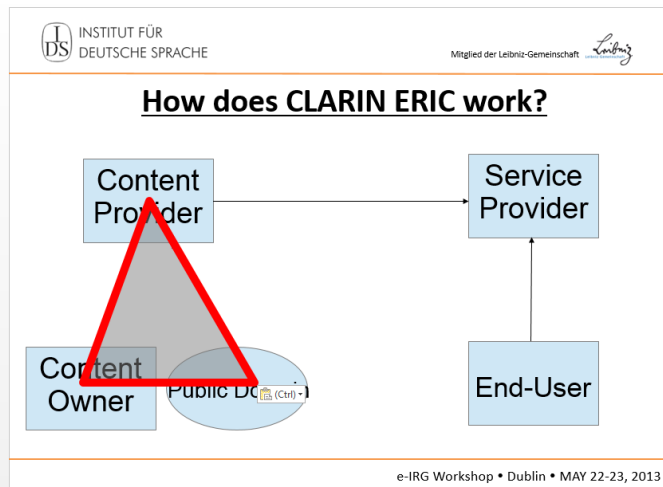
Related activities – views (II)

- Current activities more on **landscaping**/classification/ narrowing down current licenses/laws/solutions
  - What are the barriers to data interoperability?
  - Different approaches solutions at different levels
    - Inter-gov (e.g. EU), gov, institute, individual research level
- Also **new solutions** are needed?
  - OpenAIRE example: difficulty implementing open access in commercial content databases (pub.med.uk);
  - Solution may be to permit research use (exemption); this can be expanded for scientific databases?
    - But still limited applicability (as starting from a limited law)
- **Need to move towards solutions**; more active and less passive approaches: work towards change instruments!

Legal issues in CLARIN ERIC
Pawel Kamocki, Ville Oksanen

- Data lifecycle actors:
  - Content owner, Content provider, Service provider, End user
- "**Vicious triangle**": Content owner, content provider, public domain
  - language corpus needs content, which is copyright, or public domain, or something in between (old datasets)
  - **Laundry symbols for flagging**: public, academic, restricted

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How does CLARIN ERIC work?

Content Provider → Service Provider

Content Owner   Public Domain   End-User

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Deposition License Agreements I

Laundry Symbols:

PUB   Public Use (Open Licenses) - recommended

ACA   Academic Use

RES   Restricted Use

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- CLARIN supports statutory **exceptions for research**
  - Possibly under the existing legal framework
  - More harmonization of law at EU level is still needed
  - Decision point in the EP this summer!

Andrew Cormack, JANET:
Commercial use of e-Infrastructures
Legal Implications

- Topics: Data Protection, State Aid, Procurement, Network Regulation, Access Policies, Software Licenses
- Main findings:
  - **Access policies and software licenses barriers for commercial use**
    - Need to plan (and budget) to extend these
  - **Data protection law** (i.e. personal data protection) **struggles with e-Infrastructure model** (what is a data controller, what a data processor)
    - Commercial use unlikely to make this worse or better
  - Some laws permit the use for new commercial R&D (up to 50%)
    - But process/formalities unclear

Discussion
Way forward - Ideas

- **Standard set of licenses and/or recommendations** for licenses that researchers can adopt

- **Clarify how definitions apply to e-Infrastructures** (e.g. on personal data: data controller/processor roles)

- **Support statutory exceptions for research use**
    - Decision vote on related personal data regulation to be fixed at EU bodies next month!
        - EU Regulation= homogenization among EU countries- differences should disappear; still interpretation may differ
    - Lesson learned: when lobbying important to have allies with economic interests (consortium beyond research groups)

Discussion
Way forward – Ideas (2)

- **Clarify applicability of copyrights for research data** (a lot of confusion)
    - researchers want to do their work; do not care about legal issues
    - Have clear guidelines about this!

- **Liability of service providers**: Service provider not responsible as long as they are not aware for infringing content;
    - if notified, then responsible; should remove content; not appear again

- **Cookbook for content owner vs. provider debate** (about data ownership)
    - As different solutions appropriate for different conditions

Way forward – key messages

- **Researcher (PI) should maintain copyright** (also on legacy subscription publication model)
  - (Currently: open access → copyright with author, while subscription model → copyright handed to publisher)
- **But couple this with default licensing options**
  - (As each researcher maintaining copyright might use different license → legal interoperability chaos! Anyhow researchers like defaults!)
- **All research funders get together and adopt a common access policy to data!**
  - Potential implication: Obligation to preserve data for a long time! → Funding implication! Who pays??

# Way forward – other messages

- **General purpose vs. thematic data centres?**
  - It depends! **Both!** In fact in many cases very complicated! (Cosmology example)
- **Education for researchers re. licensing**
- **Conference on legal issues with key stakeholders**
  – could be more mature in a couple of year
  - NSF / EU (iCORDI=RDA Europe) can prepare this
  - IDS-Manheim conference on eHumanities legal issues next year may be a place to converge

- **RDA-CODATA legal interoperability group to host many of these discussions!** Becoming more active!

Thank you

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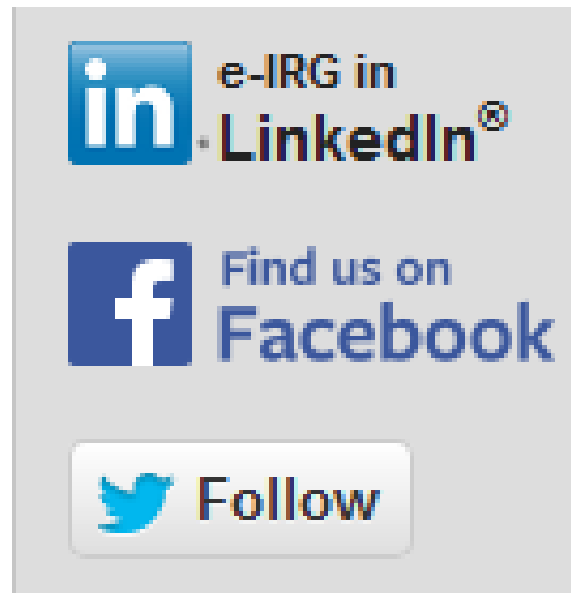
And #eirg for twitting during workshops