TDM STORIES #2

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Bayer is a leading Life Sciences company. We are generally known for being a pharmaceutical company as well as having developed aspirin; however we are also active in the areas of crop sciences and veterinary medicines.

For a company like ours, using and understanding information is critical. Various parts of Bayer have been using Text and Data Mining (TDM) technologies for roughly 15 years. Today, we continue to see great value as well as future potential in TDM as it has proven to be instrumental in the development of new drugs or new crop protection products. Not only is TDM very important for the research and development of new products, but it is also used in product safety and the understanding of market trends. It can be said that TDM is a basic component of research in the public and private sector.

We fully understand the need to safeguard and respect intellectual property rights, we ourselves produce and compile data and believe that strong intellectual property rights are important.

The challenge we see with the current exemption in article 3 of the copyright directive reform is twofold: on one hand, it leads to much legal uncertainly of how data that has already been legally acquired in the past can be used, for example through expensive licenses. On the other, the exemption in article 3 raises questions of how material in the internet which is publicly available can be used without going through a process which deters users from using TDM. An example of where text and data mining is severely hindered is in the current licensing system of scientific literature. In many cases, users are required to obtain multiple licenses for the same material, as content owners make an artificial differentiation between a machine and a human reading the same material. This leads to TDM users unnecessarily having to pay twice – if you go to the book store you would not pay to purchase a book and then pay a second time to open and read it.

It is important to note that if there have been improvements made, or value added to the material to make it more useful for text and data mining,

then certainly there is a cause to pay. However, we question the difference which publishers make between a human and a machine reading the identical material.

The question of how copyrighted material, which was licensed before text and data mining clauses were included or even thought of in contracts, can be used, has also not been answered. Rather the proposed exception raises more questions than answers. Restricting the exception to non-commercial research will prevent many companies, big and small, from analysing vast quantities of data which have legally been accessed.

Excluding private research, start-ups and companies from making the most of the vast amount of data at our fingertips will surely hinder Europe's competitiveness.

Simply saying that broadening the TDM exception will be detrimental to rights owners cannot be proven one way or the other. Arguably, it can create even more value for content owners as their material could become more desirable and included in more research or more licences sold. The current licensing system should not differentiate between physical and digital reading: the right to read should be the right to mine, for all users with legal access to data.