Greek Version of Open Data Commons Open Database License and the Licensing Status for promoting Openness in Greece

Submitted on 13 Oct 2014 by Charalambos Bratsas

Open Knowledge Greece has announced the creation and availability of **Open Data Commons (ODC) Open Database License (ODbL)** in Greece.

The Greek version of ODC ODbL v.1.0 was created by Marinos Papadopoulos (Creator/Legal Lead), Petros Tanos (Creator) and Charalampos Bratsas (Project Lead) in an effort to promote Openness and Open licensing in Greece. The English version of ODC ODbL keeps its authoritative form while the Greek version of ODC ODbL solely aims to enhance understanding of the licence and promote Openness regarding Open Data in Greece.

The ODC ODbL is focused on Open Data and is deemed highly appropriate for achieving the Open Data Commons compared to any other Open Data/Open Access/Openness license worldwide.

Marinos Papadopoulos, an Attorney specializing in Openness, Open Access, and Copyleft licensing in Copyright, describes to the ePSI Platform the status of licensing schemes promoting openness in Greece

Regarding *Openness* in Greece, it is a fact that there have been sporadic voices in the Greek public administration which have been expressed their favour for *Openness* regarding works and political communication used through all sites and Internet networking elements leveraged upon.

Said voices in public administration leveraged on the Creative Commons licenses with the aim to enforce *Openness* for any copyrightable content promoted and communicated via political parties' websites, thus practicing *Openness* in its day-to-day operations. The fact that political parties and politicians in Greece (which are experienced in exerting governing power through public administration) have opted for Creative Commons licensing for their political communication and all works communicated to its constituents via their websites is indicative of a trend in public administration in Greece towards *Openness*—even if that trend is sporadic. It is also an encouraging fact that triggers hope for further development both in political and legal frameworks in Greece that could enhance and multiply the *Open Access* initiatives in the country.[1]

Most legal devices that support *Openness* and *Open Access* in Greece are used voluntarily, like the GNU GPL[2] and LGPL[3] free software licensing, the GNU Free Documentation License (GFDL),[4] and the Creative Commons[5] licensing suit which have repeatedly being tested and upheld in Court-cases—none of these Court cases has occurred in Greece, though, and no case of this kind, i.e. involving the use of an *Open Access* licensing tool has been tested in a Greek Court of law so far.[6]

Additionally, there is the European Union Public License (EUPL) currently used in version 1.1[7] which was developed upon the initiative of the Interoperable Delivery of European e-Government Services to Public Administrations, Business and Citizens (IDABC) that is focused mainly on open source software used by and within public administration.[8] And there's also the Greek version of Open Data Commons (ODC) Open Database License (ODbL) v.1.0 based on the original ODbL of Open Knowledge International (OKI) and developed by Open Knowledge Foundation reece (OK GR) which aims at enhancing the use of said license regarding the licensing of Open Data[9]

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[1] The fact of the very few Greek political parties' option to leverage upon the openness momentum of Creative Commons licensing resembles President Elect Barack Obama's option to set his political communication during the U.S. Presidency campaign under the Creative Commons licensing indicating his favorable stance towards open access; see more on Barack Obama's CHANGE.GOV copyright policy at http://change.gov/about/copyright_policy [last check, Oct.8, 2014]. It remains to be seen whether pre-election option will elevate into formal policy and/or legal framework favouring Openness.

[2] Currently the v.3 of the GNU GPL is available. Said version was released in June 2007 and contains several modifications of v.2, namely the most important of which are amendment to section 3 regarding DRM which obliges the licensor not to use GPL-covered works to construct effective technological protection measures and not to waive any actions in order to forbid that effective technological measures are circumvented using a GPL-covered work. Also, amendment to section II which states that patents on GPL-covered works are covered with the new v.3 of said license; the amendment of section 7 which improves the compatibility of the GPL license with other openness licenses.

[3] The GNU LGPL was designed for licensing software libraries which contain a list of the functions of a programme and other data in order to connect it to applications. The combination of LGPL software with non-fee software is allowed thanks to the LGPL.

[4] The **GNU Free Documentation License** (GFDL), available at http://www.gnu.org/copyleft/fdl.html [last check, Oct.8, 2014] is a license for manuals of computer programs that Stallman released in March 2000. Current version 1.3 of the GFDL was released in November 3, 2008. The core rules of the GFDL are the same as in the GNU GPL license: the four freedoms of the GNU GPL and the prohibition of additional restrictions. The GFDL has clauses that help publishers of free manuals make a profit from selling copies. A novelty of the GFDL is the concept of a *transparent copy*. This is intended to transfer the distinction between object code and source code of software required to make modifications from software to documents. In order to allow modification of text and image the license requires the availability of a machine-readable copy, in a format whose specification is available to the general public and that can be edited with generic text, paint or drawing programs. As examples it mentions ASCII, LaTeX, HTML, PNG, XCF and JPG. In contrast, opaque formats are those that can only be read and edited by proprietary programs. The GFDL like the GPLv3 includes an anti-DRM clause. There has been quite strong criticism of the GFDL license for allegedly having a focus on publishers' business models over freedom and on print over digital publishing. For a critical view of it, see, for example, Hyde, A., (2008), *[iDC] Free Manuals for Free Software*, available at https://lists.thing.net/pipermail/idc/2008-October/003282.html [last check, Oct.8, 2014].

[5] The creation of the Greek version of Creative Commons licensing suit was undertaken by Marinos Papadopoulos in February 2006 working as a contractor for the National Research and Technology Network s.a. He created the Greek version of Creative Commons v.2,5 and v.3,0 licenses compatible with the national legal framework for Copyright. The Greek version of Creative Commons licenses was set to public use as of October 13, 2007, in an event launching said licensing option in Greece thrown in the Ceremonies Hall of Athens University with the presence of Professor Lawrence Lessig and Professor Dionysia Kallinikou

 [6] The GNU GPL was tested and upheld in court for the first time in *Welte v. Sitecom Deutschland GmbH* by the District Court of Munich in May 19, 2004, case 21 O 6123/04 available in German language at http://www.jbb.de/fileadmin/download/urteil_lg_muenchen_gpl.pdf [last check, Oct.8, 2014] and in English language at http://www.jbb.de/fileadmin/download/judgment_dc_munich_gpl.pdf [last check, Oct.8, 2014]. See Jaeger, T., (2010), *Enforcement of the GNU GPL in Germany and Europe*, available at http://www.jipitec.eu/issues/jipitec-1-1-2010/2419/dippadm1268746871.43.pdf [last check, Oct.8, 2014]. Welte is Linux kernel developer and the author of netfilter/iptables which is frequently used in routers and other communications equipment. Since starting gpl-violations.org (see it at http://gpl-violations.org/) [last check, Oct.8, 2014], his project has enforced the GPL against infringements in more than one hundred cases winning each one either in-court or out of court. Also in the US the GPL was upheld in *Wallace v. Free Software Foundation* by the United States District Court, Southern District of Indiana, Indianapolis Division, case 1:05-cv-00618 JDT TAB, 2006, available at http://www.groklaw.net/pdf/WallaceFSFGrantingDismiss.pdf [last check, Oct.8, 2014]. Regarding Creative Commons licenses, the first known court decision involving a Creative Commons license was handed down on March 9, 2006 by the District Court of Amsterdam. The case confirmed that the conditions of a Creative Commons license automatically apply to the content licensed under it. See the *MTV VJ Adam Curry v. Audax* case LJN: AV4204, Rechtbank Amsterdam, 334492 / KG 06-176 SR available in English at http://wiki.creativecommons.org/File:Curry-Audax-English.pdf [last check, Oct.8, 2014]. Since 2006, Creative Commons licenses have been tested and upheld in many court-cases in Europe and the U.S., too, such as in case 09-1684-A *Lichôdmapwa v. L'asbl Festival de Theatre de Spa* in Le Tribunal de Premiere Instance de Nivelles, available in French language at
 http://wiki.creativecommons.org/images/f/f6/2010-10-26_A%27cision-trib.-Nivelles-Lichodmapwa.pdf [last check, Oct.8, 2014]; in case *Gerlach v. DVU*, in the District Court of Berlin, available in German language at
 http://www.ifross.org/Fremdartikel/LG%20Berlin%20CC-Lizenz.pdf [last check, Oct.8, 2014]; in case *SGAE v. Fernandez*, in the Lower Court no.6 of Badajoz, available in Spanish at
http://wiki.creativecommons.org/images/0/03/Sentencia_metropoli.pdf [last check, Oct.8, 2014]; in case *SGAE v. Luis*, in Provincial Court of Pontevedra 1st section, available in Spanish language at
http://www.interiuris.com/blog/wp-content/uploads/Creative_Commons_APPO.pdf [last check, Oct.8, 2014] and in English language at http://europe.creativecommons.org/webfm_send/1 [last check, Oct.8, 2014]; in case 09, 3561/09

Avi Re'uveni v. Mapa Inc., in District Court I-D of Israel, available in Hebrew at http://wiki.creativecommons.org/images/a/a5/Reuveni_rivlin.pdf [last check, Oct.8, 2014]. See, also, the case *Gerlach v. DVU*, available in English at http://de.creativecommons.org/files/2011/09/LG-Berlin-Gerlach-vs-DVU.pdf [last check, Oct.8, 2014]. In this case the District Court of Berlin granted the injunction because the applicant had successfully established prima-facie evidence of authorship, of the licensing and of the breach of the license, thus triggering the right to injunction following from s. 97 ss. 1 in combination with s. 19a Urheberrechtsgesetz (German copyright code). The case is about a photo licensed with Creative Commons in Germany. In summer of 2010, the applicant took a picture of the German politician *Thilo Sarrazin* at a public event and published it online under the Creative Commons license BY-SA v.3.0. Later the *DVU*, a German political party used the picture on their website without the plaintiff's name, the license notice or any other requirement of the license. The applicant sent a notice and takedown letter to which the party didn't react. Subsequently the applicant sought preliminary injunction before the Disctrict Court of Berlin against the unauthorized publication of the picture.

[7] An intention for updating the EUPL v.1.1 has been announced. Public consultation for drafting the EUPL v.1.2 is in progress available at https://joinup.ec.europa.eu/community/eupl/topic/public-consultation-draft-eupl-v12 [last check, Oct.8, 2014]; see, also, the first draft of EUPL v.1.2 available at https://joinup.ec.europa.eu/sites/default/files/EUPL%20v1.2%20-%20Draft%20EN%20v31%20Jan%202013.pdf [last check, Oct.8, 2014].

[8] The EUPL was released on January 9, 2009 by the European Commission which is in charge of this license. The EUPL is based on other open source license models and is adapted to specific characteristics of the Copyright law within the EU Member States. The scope of the EUPL is not limited to public administration open source software, but rather may be used for licensing private software projects. EUPL differs from the GNU GPL in that it contains a clause on the applicable law in section 15 which states that the law of the Member State where the licensor's residence or office is situated must be applied. If the residence or registered office is situated outside the EU or the European Commission is involved as a licensor, Belgian law is applicable.

[9] See **ODC ODbL v.1.0 Greek version** available at http://opendatacommons.gr [last check, Oct.8, 2014] created by Marinos Papadopoulos (legal lead & creator), Petros Tanos (creator), and Charalambos Bratsas (project lead) for the Open Knowledge Foundation Greece.