Follow-up to the public consultation on the re-use of public sector information : issues surrounding sui generis database rights

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This follow-up provides further comment on the issues surrounding sui generis database rights and energy system information. Our original submission was Morrison *et al* (2017) and the relevant paragraphs were 63, 64, 68.   **1**

The definition of a "substantial part" of a database remains undefined: indeed an adverse judgement might well set the threshold below 50 %?   **2**

If database rights are retained by PSI providers, then downstream domain-specific data hosting sites run by third parties — such as OPSD and OEP in our field — will have great difficulty tracking the proportion of content they hold from individual PSI databases. This is because — assuming the presence of open licensing — external users and site maintainers can continuously and separately repackage and upload intact, modified, and/or remixed datasets using information originally sourced from PSI providers. Therefore, given sufficient activity, the ratio of content from individual providers held in public downstream data hosts will rapidly become impossible to deconstruct and monitor.   **3**

Some PSI providers offer very limited datasets and the "substantial part" threshold could potentially be tripped with one file download. For example perhaps, the UBA power plant spreadsheet (UBA 2017).   **4**

It remains unclear whether mandated transparency platforms — such as the electricity sector portal operated by ENTSO-E — are included or exempt from the "substantial part" requirement. Or who indeed might hold the database right/s if they are deemed to exist: the platform operator or the primary data providers. Whilst noting that the ENTSO-E transparency platform collects, organises, and serves information from hundreds of such providers. Jaeger (2017:21–25) traverses these matters but cannot arrive at an informed conclusion.   **5**

Abbreviations

ENTSO-E   European Network of Transmission System Operators for Electricity
OEP   OpenEnergy Platform project
OPSD   Open Power System Data project
PSI   public sector information (includes privately held information of public interest)
UBA   *Umweltbundesamt* [German Environmental Agency]

References

Jaeger, Till (24 July 2017). *Legal aspects of European electricity data — Legal opinion*. Berlin, Germany: JBB Rechtsanwälte.

Juris (2017). *Act on Copyright and Related Rights (Urheberrechtsgesetz, UrhG) — Amendments to 20 December 2016 — Official translation*. Saarbrücken, Germany: Juris. This version lacks the revisions enacted on 30 June 2017.

Morrison, Robbie, Tom Brown, and Matteo De Felice (10 December 2017). *Submission on the re-use of public sector information: with an emphasis on energy system datasets — Release 09*. Berlin, Germany. Published under a Creative Commons CC BY 4.0 license.

Open Power System Data (OPSD) project. http://open-power-system-data.org Germany.

OpenEnergy Platform (OEP) project. http://oep.iks.cs.ovgu.de Germany.

UBA (25 August 2017). *Datenbank "Kraftwerke in Deutschland"*. *Umweltbundesamt (UBA)*. Dessau, Germany.

Wikipedia (ongoing). Open energy system databases. This page describes the OPSD and oedb project and other members of a downstream data ecosystem starting to service energy sector analysts and modelers.

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