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Software

Paris Accord Round II agreement between the public and creative communities involved in the production of software.

Context - the nature of software

1. Software consists of coded instructions which direct the operating of a computer or of a network of computers.
2. Computers take many forms including general purpose desktop, laptop and netbook devices, and behind-the-scene servers. They are also found embedded in consumer devices such as mobile phones, DVD players, TV set-top boxes as well as motor vehicles, industrial and domestic equipment, and supermarket checkout tills.
3. Software is not mined, farmed or manufactured. It is always a creative output of specifically skilled authors known as programmers. It is authored.
4. Programmers create software in a social context. They might be individual authors writing software for their own use or for the use of others. More typically they are socially organised, either in a voluntary collaboration organised around a common creative goal or as paid employees within the private, public or NGO sectors.
5. Software as such is neither owned or sold. Copyright laws construct a set of rights around software, such as the right to use, to copy, to inspect and to modify. It is these rights which are bought, sold, leased or given away in the form of licences. Most proprietary software licences grant the user only the right to use the software - usually, but not necessarily, for a fee. These licences have facilitated the growth of a significant software industry in many countries.
6. Free/Libre Open Source Software (FLOSS) licences grant the user the right to use, copy, inspect, distribute and modify the software, frequently with conditions attached. FLOSS has also made a significant contribution to the economy of many countries [FLOSS Impact Study, 2007, Rishab Ghosh and Phillipe Aigrain, <http://www.flossimpact.eu/>]. The software is frequently integrated into larger software projects with little or no transaction costs e.g. FLOSS is crucial for the growth of the Internet and World Wide Web by providing essential parts to these networks. Software which is available under a FLOSS licence is a public good.
7. Governments, organisations and individuals procure software licences from a wide variety of sources, both proprietary and FLOSS. The capability of different computer programs to communicate and meaningfully exchange data and services is known as interoperability. Interoperability is a necessary requirement to encourage competition, innovation and avoid vendor lock-in.

8. An important determinant of the interoperability of a program or system is its conformance to open standards for data formats and protocols. The use of open standards for public information made available by governments is necessary to ensure that the public is not burdened with the requirement to purchase software licences from particular vendors. In the interest of promoting transparency and accountability, all information held by governments on behalf of the public should be archived using open standards.

9. The granting of patents for software creations creates an atmosphere of uncertainty and risk for both consumers and creators of software which either prevents, or places a tax upon, new software coming to the market. The vast majority of software patent rights are owned by companies in wealthy countries. The recent trend of filing those into so-called developing countries in increasing numbers has the effect of preventing competition from emerging in those countries.

10. Both competition and collaboration in the production of software increase quality and fairness and are good for consumers.

Therefore ...

11. Incumbent dominant market players should not be facilitated in preventing new players and business models from emerging. Governments have an obligation to remedy distortions in the market caused by monopolies. Governments derive their legitimacy from the public and should be wholly accountable to the public.

12. Governments have the right, and even the obligation, to base their software procurement policies on open standards.

13. Governments have the right, and even the obligation, to favour that public money is spent in support of the production of public goods, including software. (proactive support of development of free software in research).

14. The advent of hosted software and infrastructure services (cloud computing) has led to new challenges relating to control and privacy. Portability of consumers' data and interoperability with competing product services should be provided by cloud computing. (The problem of privacy is vexing. We have no consensus on a solution.)

Topics for further discussion

1. EULA
2. Software as a service
3. Curriculum reform
4. Escrow
5. Bundling/OEM
6. Funding of production of software as a public good