

"Open Source Software (OSS) as a Default Exploitation Route for Government Funded Software"

Statement on the UK Government eEnvoy Office Policy

Brussels, 23 January 2004

Introduction

The "Initiative for Software Choice" (ISC, www.softwarechoice.org), a coalition of software companies and associations comprising some 300 members across the globe¹, works to advance the concept that multiple competing software markets models should be allowed to develop and flourish, unimpeded by government preference or mandate. A fundamental objective of the ISC is to promote the universal availability of government funded research and development.

The ISC strongly supports the development and adoption of all kinds of software, whether open source software (OSS), hybrid or commercial. For this reason, we believe that government procurement policies that establish a preference for any one type of software over another weaken the overall ICT marketplace, reducing the choice of viable options available to public authorities and ultimately raising costs to the state. Stated differently, it is the act of preferring one type of software over another through mandate, rule or law – not the ultimate choice of software or how such software was developed – that remains at odds with the ISC and its members' advocacy.

¹ The ISC has 4 members in the UK and is run by the Computing Technology Industry Association (CompTIA, www.comptia.org); CompTIA itself has over 200 corporate members in the UK (mainly small-to-medium-sized enterprises).

“Open Source” and “Commercial” Software

It is helpful at the outset to clearly define what is meant by “open source” and “commercial” software. Software is most frequently distributed under one of three broad types of licenses, commercial software licenses and two main types of open source licenses: the General Public License (GPL) and the Berkeley Software Distribution license (BSD).

Under a commercial software license, the user generally pays a fee to obtain a license to use the software and the license defines the terms and conditions under which the user may or may not use the software.

The GPL is the most restrictive open source license. Under the GPL a software author is allowed to insure that no individual or entity derives private benefit from the author’s efforts without returning that benefit to the public. As a result, GPL licensed software cannot be used as the starting point to create any commercial product nor can any commercial product be mixed together with GPL software to create a new commercial product.

The BSD license is the most permissive type of open source license. It allows anyone to use and modify source code with limited qualifications, such as requiring that any derivative products clearly note that some of the code came from the original open source program. Licensees may redistribute modified software as part of a commercial product subject to standard commercial licensing terms. In instances where publicly funded R&D projects require open source licensing, the ISC believes the BSD license best meets those requirements while at the same time leaving open the possibility of commercial exploitation of that research, thereby retaining a major incentive for commercial organisations to participate in R&D.

ISC Opposes Default for Government Funded R&D

Cooperative government R&D projects among academia and the public and private sectors can play an important role in fostering technology development. These projects can maximize the best work of each participant and direct efforts towards the goal of generating new goods, processes and services for the marketplace.

Government funded R&D has made important contributions to the advancement of technology by funding basic software research. The ISC believes that when public funds are used to support software research and development, the innovations that result from this work should be licensed in ways that take into account both the desirability of broadly sharing those advances as well as the desirability of applying those advances to commercialized products. This broad dissemination of results contributes to a sustainable cycle of innovation in which government funding for basic research advances the set of knowledge available to the public while helping spur advances in commercial products. These products in turn, create the jobs, profits and tax revenues necessary to fund future rounds of public research.

As a result, the ISC cannot support a default OSS license for publicly funded R&D. The setting of a selective and mandatory default policy for whatever software license would be in contradiction with the overall policy as expressed in the July 2002 UK eEnvoy Statement (<http://www.e-envoy.gov.uk/>). According to the approach defined in this Statement, the Government should consider both open source and commercial solutions for software procurement and R&D funding and that the decision should be made on a value for money basis.

Of course, a particular research project may logically require a specific license. For example, research pertaining to the Linux development model would require the use of a General Public License (GPL). However, in other instances where publicly funded projects require open source licensing, the Berkeley Software Development license (BSD) – a permissive open source license- would best meet those requirements, while also enabling commercial organisations to draw on results.

Recommendation

Over the last few months, large sections of the ICT industry have made clear their opposition to any default software license for government-funded R&D. The ISC strongly supports the view that R&D project owners should be free to select the licensing model that best meets their particular needs, and that Public authorities should maintain the broadest array of licensing options when pursuing R&D projects. For this reason, the ISC strongly encourages the eEnvoy to continue to promote a technology-neutral policy with respect to government funded R&D, and we recommend that any discriminatory reference to a particular software license be deleted from the policy currently under discussion

The ISC is committed to working with the UK eEnvoy Office, in the context of the ongoing industry consultations, in the adoption of fair rules that ensure unrestricted trade of, and open competition between, all software products.