New exceptions for Text and Data Mining and their possible impact on the CLARIN infrastructure
• Copyright - exclusive rights to copy and share
• TDM requires (temporary) copying
• Copyright Directive 2001 allows for exceptions:
  ➢ Temporary copies (web browsing)
  ➢ Non-commercial research
  ➢ Quotations etc.
• Principle: exceptions are overridden by contracts and technological protection measures (DRM)
National exceptions for TDM I : the UK

• Introduced in 2014
• Beneficiaries: everybody
• Allowed acts: reproduction for ‘computational analysis’ (no sharing)
• Allowed purposes: non-commercial research
• Requirements: lawful access, attribution
• Non-overridable by contracts
• Overridable by technological protection measures
National exceptions for TDM II : Germany

- UrhWissG (Urheberrechts-Wissensgesellschafts-Gesetz)
- Introduced in 2017/2018
- Beneficiaries: everyone
- Allowed acts: reproductions for automatic analysis, sharing within research team
- Allowed purposes: non-commercial research
- Limitation: after the end of the project, the corpus must be deleted or transferred to a specialised archive
- Requirement: flat-rate remuneration
- Non-overridable by contracts, can possibly override TPM?
National exceptions in some other Member States

• Austria:
  ➢ No research exceptions (only private copies for research purposes)

• Poland:
  ➢ Very broad exception for non-commercial research (only for public institutions) seems to cover TDM activities

• France:
  ➢ Proposed, not yet enacted — dead letter for now
TDM exception(s) in the new Copyright Directive

- Directive on Copyright in the Digital Single Market
  - Proposed in 2016
  - Approved by the European Parliament on 12.09.2018
  - Expected to be adopted in early 2019
  - Twelve months for implementation
TDM exception(s) in the new Copyright Directive I

- Art. 3 – mandatory exception
  - Beneficiaries: public research organisations, educational establishments, cultural heritage institutions
  - Allowed acts: reproductions for text and data mining (no sharing)
  - Allowed purposes: research (also commercial)
  - Requirements: lawful access
  - Non-overridable by contracts
  - TPM only possible in limited circumstances
TDM exception(s) in the new Copyright Directive II

- Art. 3a – optional exception
  - Beneficiaries: everyone
  - Allowed acts: reproductions for text and data mining (no sharing)
  - Allowed purposes: any
  - Requirements: lawful access, use has not been expressly reserved by rightholders
TDM exception(s) in the new Copyright Directive III

• ‘Trilogue’ meeting — European Commission, Parliament, Council — are currently having closed-door meetings to agree on a final text.
• Meetings ongoing through Christmas 2018
• Upload filters and ‘link tax’ (snippets of news articles must be licensed) are most controversial aspects.
• Text and data mining Article 3 likely (?) to stay the same as current drafts...
Closing remarks – impact on the CLARIN community?

- Lower transaction costs for research activities — certain types of language research will certainly benefit

- These exceptions do not — and should not — replace proper licensing in many cases

- These exceptions are designed for *individual researchers and small teams* — research infrastructures were not taken into account
  
  - Exceptions do not allow easy sharing
  
  - Exceptions will impact researchers and individual centers, rather than CLARIN
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