January 31, 2015

City of Surrey
Attn: Sean Simpson

Dear Mr Simpson,

I am contacting you today on behalf of the Open Definition Advisory Council, regarding a request we received on November 4, 2013 for the Open Government License - Surrey version 1.0 to be reviewed for conformance as an open data license as defined by the Open Definition.

We wish to make the following recommendation and suggestions.

First, we encourage all open data publishers to use an established license wherever possible. We encourage this because we believe that it is the best interests of both publishers and consumers of open data.

Recommendation

The OGL Surrey 1.0 license has a clause in the exemptions section which reads “Information or Records not accessible under the Freedom of Information and Protection of Privacy Act (B.C.).”

Our interpretation of this clause is that if a work is published with this license a user has no means of determining if the license applies to that work without first consulting and understanding the Freedom of Information and Protection of Privacy Act (B.C.) and figuring out if the work they want to access is or is not accessible under this Act.

We feel the requirement imposed by this clause makes the applicability of the license uncertain and therefore the license cannot be considered conformant with the Open Definition. It puts a substantial burden on data users and may severely limit what they would be willing to do with the data. If there is some uncertainty as to whether or not the license applies to a certain dataset, then we suggest that the publisher is the party in the best position to make that assessment and should therefore bear that burden.

We recommend that this clause be removed.

While not strictly required for conformance, we also make the following suggestions:

1. In the Definitions section under “Information” the text refers to “Records” which is also found in the Definitions section. The definition of “Records” then refers to “Section 29 of the Interpretation Act (B.C.).” Though this section clearly lists what is meant by records, we feel that similar to our previous recommendation, this reference to records unnecessarily places a burden on the user and should be removed. Information publishers themselves should ascertain whether or not information should be published under the license and then apply the license to those works, relieving the user of this burden.

2. It is most preferable to have publishers adopt a reusable license. Where that’s not possible we encourage license writers to make their licenses reusable. To do this, clauses which are specific to
a publishing party should be removed. In the case of the OGL Surrey 1.0, even assuming the reference to the Acts is removed, publisher-specific language is used in several other places such as the name of the license, the attribution statement and governing law. We recommend those statements be modified to remove the publisher-specific language so that others might reuse this license without changes.

As the Open Definition Advisory Council, our first preference is that publishers adopt one of the reusable licenses, such as PDDL, CC0 or CC BY. Other cities in Canada such as Kelowna and Montreal have adopted this best practice.

If that is considered impractical, we recommend that publishers adopt a license such as OGL Canada v2.0, which conforms to the Open Definition and can often be reused with only minor changes related to jurisdiction name and references to jurisdiction-specific policies. The Open Government Licence - Newfoundland and Labrador is an example of this.

The Open Definition sets out principles to define ‘openness’ in relation to content and data and is widely recognized as the international standard to evaluate license compliance.

We appreciate you taking the time to explore this with the Open Definition Advisory Council. It is our hope that you will find these suggestions useful. We would be pleased to discuss this with you further and explore how we could help you to make the OGL Surrey license compliant with the Open Definition. Please do not hesitate to contact us if we can be of further assistance.

Kind regards,

Herb Lainchbury, Chair
on behalf of the Open Definition Advisory Council

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