



INSPIRE and IPR:

A thunderstorm or a tempest in a teapot?

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INSPIRE and IPR

- A little bit of hairsplitting before we start ...
 - Access (directive 2003/4 + chapter IV INSPIRE directive)
 - Citizens
 - “Democratic” purposes
 - Re-use (directive 2003/98)
 - Private sector or public authorities
 - Purposes “outside of the public task”
 - Sharing (Chapter V INSPIRE directive)
 - Public authorities
 - Public task purposes



INSPIRE and IPR

- Access and IPR in the INSPIRE draft directive: where are we now?
 - Network services
 - Commission + Parliament
 - Limits to public access to view, download, transformation and invoke services
 - no limit to public access because of IPR
 - Council
 - Limits to public access to all services
 - Possible limit because of IPR



INSPIRE and IPR

- Why should IPR be included?
 - Consistency with Directive 2003/4
 - Good but not necessary
 - No obligation under Aarhus
 - Later legislation can differ from earlier legislation
 - Misuse of data
 - Control over what happens with the data
 - Legitimate worry
 - Already other safeguards?
 - Click-use licences, format to prevent commercial re-use



INSPIRE and IPR

- Why should IPR be included (2)
 - Concerns about funding
 - Legitimate worry
 - Other safeguards
 - Licences, e-commerce services, ...
 - Counterproductive?
 - Customer wants to see what he buys
 - If the customer doesn't want to buy, he won't pay just for looking



INSPIRE and IPR

- Side-note :charges for network services in the draft directive - where are we now?
 - Commission + Parliament
 - Discovery and view services free of charge
 - Council
 - Discovery services free of charge
 - View services
 - As a rule, free of charge
 - Charges and/or licences are possible when they are an essential precondition to maintain the spatial data sets and services or to fulfill requirements of existing international SDI in a sustainable way



INSPIRE and IPR

- Charges for network services
 - Free of charge availability “as a rule”
 - Distinction between viewing and downloading
 - Not easy on the Internet
 - Cf. technical copy discussion in Copyright Directive
 - Directive 2003/4: are viewing services “supply” or “consultation”?
 - Consultation on site is free of charge
 - Supply can give rise to reasonable charges



INSPIRE and IPR

- Back to IPR...what are we talking about?
 - Copyright on data
 - Requirements: originality and expression
 - Originality : Creativity / skill, judgment and labour
 - Difficult to reconcile originality and accuracy
 - Copyright on databases
 - Originality : selection or arrangement is the author's own intellectual creation
 - Difficult to reconcile originality with completeness and interoperability



INSPIRE and IPR

- Back to IPR...what are we talking about? (2)
 - Sui generis database right
 - Protects investment, not creativity
 - Requirement: substantial investment in obtaining, verification or presentation of the contents
 - Not in creating the data?
 - Protection against extraction or re-utilization of entire database or substantial parts thereof
 - Not against non-substantial parts?
 - Only when in conflict with normal exploitation of the database or unreasonable prejudice to legitimate interests of the maker of the database



INSPIRE and IPR

- Let's keep things in perspective
 - IPR are not the devil, but they are not a panacea either
 - IPR were meant to be a balance between the dissemination of knowledge and the compensation of the authors
 - “Keep it in or throw it out” discussion should not hinder the INSPIRE process!



INSPIRE and IPR

Thank you for your time!

Questions or remarks?

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<http://www.law.kuleuven.be/icri>

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