Opinion on Additional Terms

Introduction

The wording of section 7 in Draft 1 proved difficult for many readers to understand. In Draft 2 section 7 has been entirely rewritten and bears a new title that more accurately reflects its scope. The new section 7 is longer than the first version, but it is no less concise; it now explicitly addresses certain issues regarding the presence and validity of additional terms that were not covered in the first version. It is meant to be clear, comprehensible, and comprehensive. Because most of the comments we received on section 7 were, in effect, questions about its meaning and interpretation, we use this opinion to explain how section 7 provides a framework for the analysis and treatment of additional terms under the GPL.

The GPL is a statement of permissions, some of which have conditions. Additional terms, terms that supplement those of the GPL, may come to be placed on, or removed from, GPL-covered code in certain common ways. We consider those added terms "additional permissions" if they grant exceptions from the conditions of the GPL, and "additional requirements" if they add conditions to the basic permissions of the GPL. The treatment of additional permissions and additional requirements under GPLv3 is necessarily asymmetrical, because they do not raise the same ethical and interpretive issues; in particular, additional requirements, if allowed without careful limitation, could transform a GPL'd program into a non-free one. With these principles in the background, section 7 answers the following questions: (1) How do the presence of additional terms on all or part of a GPL'd program affect users' rights? (2) When and how may a licensee add terms to code being distributed under the GPL? (3) When may a licensee remove additional terms?

Additional Permissions

Additional permissions present the easier case. We have licensed some of our own software under GPLv2 with permissive exceptions that allow combination with non-free code, and that allow removal of those permissions by downstream recipients; similarly, LGPLv2.1 is in essence a permissive variant of GPLv2, and it permits relicensing under the GPL. We have generalized these practices in section 7. A licensee may remove any additional permission from a covered work, whether it was placed by the original author or by an upstream distributor. A licensee may also add any kind of additional permission to any part of a work for which the licensee has, or can give, appropriate copyright permission. For example, if the licensee has written that part, the licensee is the copyright holder for that part and can therefore give additional permissions that are applicable to it. Alternatively, the part may have been written by someone else and licensed, with the additional permissions, to that licensee. Any additional permissions on that part are, in turn, removable by downstream recipients. As subsection 7a explains, the effect of an additional permission depends on whether the permission applies to the whole work or a part.

We have drafted version 3 of the GNU LGPL, which we have released with Draft 2 of GPLv3, as a simple list of additional permissions supplementing the terms of GPLv3. Section 7 has thus provided the basis for recasting a formally complex license as an elegant set of added terms, without changing any of the fundamental features of the existing LGPL. We offer this draft of LGPLv3 as as a model for developers wishing to license their works under the GPL with permissive exceptions. The removability of additional permissions under section 7 does not alter any existing behavior of the LGPL; the LGPL has always allowed relicensing under the ordinary GPL.

Additional Requirements and License Compatibility

We broadened the title of section 7 because license compatibility, as it is conventionally understood, is only one of several facets of the placement of additional terms on GPL'd code. The license compatibility issue arises for three reasons. First, the GPL is a strong copyleft license, requiring modified versions to be distributed under the GPL. Second, the GPL states that no further restrictions may be placed on the rights of recipients. Third, all other free software licenses in common use contain certain requirements, many of which are not conditions made by the GPL. Thus, when GPL'd code is modified by combination with code covered by another formal license that specifies other requirements, and that modified code is then distributed to others, the freedom of recipients may be burdened by additional requirements in violation of the GPL. It can be seen that additional permissions in other licenses do not raise any problems of license compatibility.

Section 7 relaxes the prohibition on further restrictions slightly by enumerating, in subsection 7b, a limited list of categories of additional requirements that may be placed on code without violating GPLv3. The list includes the items that were listed in Draft 1, though rewritten for clarity. It also includes a new catchall category for terms that might not obviously fall within one of the other categories but which are precisely equivalent to GPLv3 conditions, or which deny permission for activities clearly not permitted by GPLv3. We have carefully considered but rejected proposals to expand this list further. We have also rejected suggestions, made by some discussion committee members, that the Affero clause requirement (7d in Draft 1 and 7b4 in Draft 2) be removed, though we have revised it in response to certain comments. We are unwavering in our view that the Affero requirement is a legitimate one, and we are committed to achieving compatibility of the Affero GPL with GPLv3.

A GPL licensee may place an additional requirement on code for which the licensee has or can give appropriate copyright permission, but only if that requirement falls within the list given in subsection 7b. Placement of any other kind of additional requirement continues to be a violation of the license. Additional requirements that are in the 7b list may not be removed, but if a user receives GPL'd code that purports to include an additional requirement not in the 7b list, the user may remove that requirement. Here we were particularly concerned to address the problem of program authors who purport to license their works in a misleading and possibly self-contradictory fashion, using the GPL together with unacceptable added restrictions that would make those works non-free software.

Section 7 points out that GPLv3 itself makes no assertion that an additional requirement is enforceable by the copyright holder. However, section 7 makes clear that enforcement of such requirements is expected to be by the termination procedure given in section 8 of GPLv3.

Conclusion

Some have questioned whether section 7 is needed, and some have suggested that it creates complexity that did not previously exist. We point out to those readers that there is already GPLv2-licensed code that carries additional terms. One of the objectives of section 7 is to rationalize existing practices of program authors and modifiers by setting clear guidelines regarding the removal and addition of such terms. With its carefully limited list of allowed additional requirements, section 7 accomplishes additional objectives, permitting the expansion of the base of code available for GPL developers, while also encouraging useful experimentation with requirements we do not include in the GPL itself.