GPL3 Process Definition

Free Software Foundation
Software Freedom Law Center

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Introduction

The technologies of Software development and deployment have changed dramatically since 1991 while the GNU General Public License ("the GPL") has remained unmodified, at version level 2. This is extraordinary longevity for any widely-employed legal instrument. The durability of the GPL is even more surprising when one takes into account the differences between the free software community at the time of version 2's release and the situation prevailing in 2005.

Today, the GPL is employed by tens of thousands of software projects around the world and while the Free Software Foundation's body of GPL licensed works is vital, it consists of no more than a tiny fraction of them. GPL'd software runs on or is embedded in devices ranging from cellphones, PDAs, and home networking appliances to mainframes and supercomputing clusters. Independent software developers around the world, as well as every large corporate IT buyer and seller, and a surprisingly large number of individuals, interact with the GPL. Moreover, free software transcends national boundaries. The GPL's use is global.

Richard M. Stallman, who founded the free software movement and who was the author of the GNU GPL, released version 2 in 1991 after taking legal advice and collecting developer's opinions concerning version 1 of the license, which had been in use since 1989. Given that the Free Software Foundation directly controlled the licensing of the GNU project, which comprised the largest then-existing collection of copylefted software assets, no public comment process and no significant interim transition period seemed necessary. The Free Software Foundation immediately relicensed the components of the GNU Project and in Finland Linus Torvalds adopted GPL Version 2 for his operating system kernel, called Linux.

Many provisions of the GPL could benefit from modification to fit today's circumstances and to reflect what we have learned from experience with version 2. Given the scale of revision it seems proper to approach the work through public discussion in a transparent and accessible manner.

The Free Software Foundation plans to decide the contents of version

3 of the GPL through the fullest possible discussion with the most diverse possible community of drafters and users. A major goal is to identify every issue affecting every user, and to resolve those issues.

For these reasons, the process of GPL revision will be a time of self-examination. Consequently, the process of drafting and adopting changes must be as close to “best practices” as possible, for both lawyers and lay people. Experience has thrown new light on the text of the current GPL. The utility of some provisions has altered over time, while others need to increase their reach in order to protect freedom in the new world of software. Most of the issues caused by this gradual development of the software world can be addressed with minor changes in the text of the GPL.

People who use software, whether they receive copies on CD, or interact with remote installations of the software, have the right to share and improve that software. (Clearly, many, perhaps most, will not modify software; but they share it and desire fixes and improvements. This means they and others must have the right.)

While the GPL is the most popular Free Software License, followed by the LGPL, a significant set of free software is licensed under other terms which are not compatible with version 2 of the GPL. Version 3 of the GPL will provide compatibility with more non-GPL free licenses.

Our primary concern remains, as it has been from the beginning, to give users freedom that they can rely on. As the community around free software has grown larger the issues involved in this creation and protection of freedom have grown more diverse and complex. Therefore, we have consulted, formally and informally, a very broad array of participants in the free software community, from industry, the academy, and the garage. Those conversations have occurred in many countries and several languages, over almost two decades, as the technology of software development and distribution changed around us. We recognize that the best protection of freedom is a growing and vital community of the free and we hope the spread of knowledge inherent in public discussion of version 3 of the GPL drafts will continue to support and nurture this community.

When a discussion draft of version 3 of the GPL is released, the pace of the revision conversation will change, as a particular proposal becomes the centerpiece. The reversioning of the GPL is a crucial moment in the evolution of the free software community; and the Foundation intends to meet its responsibilities to the makers, distributors, and users of free software. In doing so, we hope to hear all relevant points of view, and to make decisions that fit the many circumstances that arise in the use and development of GPL-covered software.

Chapter 1

Objectives

In drafting a new version of the GPL, the Free Software Foundation have been guided by a few basic principles. These will inform the processes of discussing and promulgating the license as described herein. These principles and their impact on the discussion process are listed below.

1.1 A Global License

As a legal document, the GPL licenses copyrighted material for modification and redistribution in every one of the world's systems of copyright law. Ours is an approach that most legal drafters would do anything possible to avoid. Publishers in general do not use worldwide copyright licenses: they try to tailor their licensing arrangements to local legal requirements for each system in which their works are distributed. Publishers rarely license the redistribution of modified or derivative works. When they do, those licenses are tailored to the specific setting.

But free software requires legal arrangements that permit copyrighted works to follow arbitrary trajectories, in both geographic and genetic terms. Indeed, modified versions of free software works are distributed from hand to hand across borders in a pattern that no copyright holder could or should be permitted to trace.

GPL version 2 performed the task of globalization relatively well, because its design was elegantly limited to a minimum set of copyright requirements. Every signatory to the Berne Convention—which means most countries in the world—must offer those principles in their national legislation, in one form or another. But GPL version 2 was constructed only with attention to the details of US law. To the extent possible, without any fundamental changes, version 3 of the GPL should reduce the difficulties of internationalization. Version 3 should more fully approximate the otherwise unsought ideal of the global copyright license.

1.2 Protection of Existing Freedoms

Our cardinal principle is to make no change impeding any of the four basic freedoms for software users that the free software movement enshrined in GPL version 2: to run, study, copy, modify and redistribute software. (It goes without saying that people have the freedom to run a program under the GPL.) These freedoms are as important in version 3 of the GPL as they were in version 2. Honoring the commitment stated in earlier versions of the license, we will preserve these basic rights.

We have judged all changes proposed since the adoption of GPL version 2 against those yardsticks and we will present, in the rationale documents described in section 2.6, reasons tying our changes to those fundamental freedoms. Parties who question changes should recognize when writing their comments that these freedoms remain the cornerstone of the license. We will evaluate all proposed changes with reference to them.

1.3 Do No Harm

Unintended consequences can imperil freedom. In approaching GPL version 3 we recognize the enormous expansion in the use of free software since 1991, as well as the many modes of use and distribution that have been invented since. These make the risks of unintended consequences much more severe than when the GPL was last modified.

A large part of the value of the public discussion and issue development described in this document is the identification of unintended consequences worldwide. This is vital to ensuring that version 3 of the GPL is a global license that works as intended in all major legal systems.

Our revision process is intended to make an exhaustive analysis of each considered change in order to explore as much as possible, in as many situations as possible, with as many users and distributors as possible.

1.4 Consulting the Community

In short, the essence of the drafting process here described is to make it possible for the Free Software Foundation to decide the contents of the GPL through the fullest possible discussion with the most diverse possible community of drafters and users. Ideally, we would identify every issue affecting every user of the license and resolve these issues with a full consideration of their risks and benefits. In order to accomplish such a large task, the discussion process involves individual community members and Discussion Committees that represent different types of users and distributors.

Each proposed change and the resolution of each issue needs the fullest description of risks and benefits, as laid out in section 4.1.

The Discussion Committees, as described in section 3, will serve as important centralized points among the different types of user. Among other actions, their role will be to identify issues from the large body of user experience and develop those issues for full presentation and resolution by the Free Software Foundation.

Chapter 2

Process

Periodic releases of the current draft will take place as the license-drafting process progresses. Each draft will represent the most current proposed changes to the GPL. This will take into account all resolved issues, see 4.2, as well as discussions. We plan to release at least two drafts for public comment. As with all materials and announcements during the discussion process, these drafts will be available from **GPLv3.fsf.org**.

2.1 Initial Draft Announcement

The first Discussion Draft of version 3 of the GPL will be released at the the first International Public Conference, January 16-17, 2006, at the Massachusetts Institute of Technology, see Appendix A. To accompany the first discussion draft, we will also release a Rationale Document explaining the reasons behind each change in an effort to clarify the nature and necessity of such changes. Similar Rationale documents will accompany each subsequent Discussion Draft of the license as it is released, see 2.6.

2.2 Publication of Revised Drafts

At least two discussion drafts of GPL version 3 will be released for public comment. Publication of the second discussion draft will occur after four or five months of discussion, issue identification, and resolution. A third discussion draft may be produced in approximately October 2006, see Appendix A, after a second or subsequent iterative process of comment, issue identification, etc. One of these will be the “last call” draft, according to conditions outlined in section 2.4.

2.3 Draft Discussion

All consultation with parties outside the Free Software Foundation and the Software Freedom Law Center concerning each discussion draft will be a matter of publicly accessible record available from **GPLv3.fsf.org**. Written deliberations from the Discussion Committees will also be available at **GPLv3.fsf.org**; sound and video recordings of live events and deliberation may become available at a later time. We expect to develop this license through public discussion in a transparent and accessible manner. To that end every effort will be made to make public all documents pertaining to the process.

The GPL revision comment process is a matter of information sharing. Below, in sections 3 and 4.1, we lay out ways that the community as a whole will tell version 3 drafters of issues with the current license. They will speak of ways to increase the positive impact of the license on the world. The Rationale Documents, outlined in section 2.6, and the process for Issue Resolution, section 4.2, are designed so that, in turn, the drafters at FSF can directly address the community and present the reasoning behind changes.

2.4 Last Call Draft

Either the second or third discussion draft will be designated the “last call” draft. This draft will begin a final period of public comment lasting at least 45 days, ending no later than January 15th, 2007. The second discussion draft may be designated the last call draft without further process if there are no major unresolved issues after full discussion of the initial draft.

2.5 Promulgation

No later than March 2007, and preferably on January 15, 2007, at the conclusion of the last call process, with all issues resolved, the Free Software Foundation will formally adopt version 3 of the GNU General Public License. At that time, the Free Software Foundation will relicense under GPL version

3 or later all parts of the GNU Project for which the Free Software Foundation is the copyright holder. All parties with authority to relicense programs whose current license terms are “GPL version 2 only” will then be in a position to decide whether to relicense their code. The Free Software Foundation hopes that Discussion Committee members will encourage the relicensing of such works, which is at the discretion of the relevant copyright holders.

2.6 Rationales

To make the commentary process easier and to keep the license-drafting process open, each successive draft of the GPL version 3 will be accompanied by a Rationale Document. This document will explain all planned changes in light of the purposes of the license and the freedoms it protects. It will also summarize the public commentary and response relevant to any changed portions of the license. In this, the Rationale Documents will complement the opinion papers issued by the Free Software Foundation regarding resolution of individual issues as identified by the Discussion Committees, see section 4.2. Rationale Documents will be available through the website **GPLv3.fsf.org**.

2.7 Outreach

Transparency does not guarantee widespread distribution; we need to work for that. Much of our effort will therefore be invested in publication and outreach. All information submitted by the public through the revision process will be passed on to the drafters, whether by direct comment submission, Discussion Committee analysis, or transcript of International Conference meetings, and all of it will remain available to the public at **GPLv3.fsf.org**.

Community members who share their experiences with the drafters are encouraged to share them with the rest of the community. People with knowledge of the GPL and the free software movement can educate their fellow community members, as well as people with no previous knowledge of free software. In an effort to extend the process to the greatest possible number of settings, a team of editors from the FSF will help develop comprehensive issue guides and introductions.

The process of revising the GPL is an opportunity for the community that cares about freedom to educate the rest of the societies they live in.

Everyone concerned with the GPL will be asked to examine the license in detail and articulate its impact and possible ways for it to better protect their and others' freedoms. For successful drafting and spread of version 3 of the GPL, this commentary must not only educate the drafters but also the community and public at large.

Chapter 3

Discussion Committees

Dealing with what will probably be extensive public comments is the task of the Discussion Committees, which must structure the flow of comments into issues that can be productively analyzed and whose proposed solutions can be debated. Their work in discovering, developing, and presenting issues is the heart of the version 3 public discussion process.

3.1 Composition

Most issues for GPLv3 are global. Therefore we plan to form committees including all categories of relationship to the GPL itself, rather than adopting a regional formation. Thus, elements of the larger GPL community around which Discussion Committees will be formed will include large and small enterprises, both public and private; vendors, commercial and noncommercial redistributors; development projects that use the GPL as a license for their programs; development projects that use other free software licenses, but are invested in the contents of the GPL; and unaffiliated individual developers and people who use software.

Coincident with the publication of this document, the Free Software Foundation will issue invitations to participate in Discussion Committees. These invitations will form nuclei of people. We hope that our invitations will result in Committees that reflect the full breadth of opinion within those sections of the community they functionally represent. But we expect that the Committees themselves will choose to invite additional participants—people whose commitment to the license is undoubted—to add the weights of their opinions to the deliberations. Such invitations, issued after the invitation of the process, shall be by majority vote of each Committee as already constituted.

3.2 Process Commitments

The Committees and their chairs should actively encourage public participation from the sectors of the public they represent.

In addition, Committees are responsible for developing all the opinions and analysis concerning issues they identify from the stream of commentary. As each Committee feels that an issue has been fully discussed among its members, it will be expected to present to the Free Software Foundation its deliberation and analysis of the issue as well as a summary of the public comment that informed its position. Where technically feasible, both the deliberations of the Discussion Committees and the arguments and analysis that they present to the Free Software Foundation will be published at **GPLv3.fsf.org**.

At the conclusion of the public discussion process, we hope to ask members of the Discussion Committees to assist the Free Software Foundation in promulgating the new license; that is, to work with the knowledge gained from their central position within the discussion and revision process to advocate the relicensing of existing GPL programs under version 3 of the GPL.

3.3 Organizational Structure

Discussion Committees should be free to choose their own working structure. The Free Software Foundation will provide a template working structure for each committee.

Discussion Committees should operate largely through network-based communication, voice and data, synchronously and asynchronously. They will organize themselves through regular meetings and web-based interactions, encourage public comment and participation, identify and discuss issues, and present those issues and all relevant argument to the Free Software Foundation for ultimate resolution.

Chapter 4

Issue Management and Resolution

From the Foundation's point of view, the revision process is characterized by the presentation and closure of issues revealed in draft discussions.

4.1 Forming Issues

The purpose of this public discussion process is to encourage information about the GPL and its role in the expansion and protection of software freedom. This purpose is empty without public commentary. In order to make the most well-informed changes possible to the GPL, we seek commentary from a wide selection of the public. Comments and suggestions are encouraged at **GPLv3.fsf.org** as well as in person at any of our International Conferences, see Appendix A.

After someone has made a comment, either directly to **GPLv3.fsf.org** or in a discussion at an International Conference, a number of steps will be taken to associate that comment with one or more currently known issues. While comments are the substance of the feedback process, issues are the containers through which they will move.

If the comment or suggestion presents a problem not already identified as an issue, it will be forwarded to the appropriate Discussion Committee where it will join other comments in the identification of a new issue.

For each comment to **GPLv3.fsf.org**, this process has three steps. First, when making the comment the commentator can specify what portion of the license or issue about the license their comment addresses.

Once submitted, the comment will be read by an associate member of the Free Software Foundation who will direct it to the appropriate Discussion Committee either for issue identification, if no preexisting issues matches with the comment, or to inform the discussion of the particular issue it addresses.

After making a comment at **GPLv3.fsf.org**, the person involved will be given a comment-identifying number that he or she can use to see towards what issue and Discussion Committee the comment was directed, as well as other comments on the issue and the documents relevant to its discussion (transcripts; Discussion Committee analysis, see 3; Draft Rationale documents, see 2.6; FSF Opinion documents, see 4.2, etc.).

4.2 Issue Resolution

Each issue identified in the course of public participation can be resolved in one of four ways: by modification of the license draft, by alteration of descriptive material, by advice concerning the use of the license, or an issue may not require any change. Discussion Committees will characterize issues as Major or Minor. Major issues will be placed on the agenda of all other Discussion Committees and, until resolved, may be placed on the agenda for successive International meetings. All issues unresolved at the end of each drafting stage will be carried over for discussion and resolution during the next discussion stage. All issues not resolved before the issuance of the last discussion draft will be finally determined by the Free Software Foundation at the close of the last call period. All Major issues resolved by the Foundation will be described by a written opinion, publicly available, at **GPLv3.fsf.org**.

Chapter 5

Other Concerns

5.1 LGPL

The Free Software Foundation may present drafts of LGPL along with drafts of GPL subsequent to the first discussion draft of GPLv3. Such drafts would also be subject to public comment and issue resolution.

5.2 Support of the Revision Process

The revision process is financially supported by donors to the Free Software Foundation, the Free Software Foundation's associate members, and a grant from Stichting NLnet. Logistical, legal, and technical support for this process is also provided by the Software Freedom Law Center, acting as the Free Software Foundation's outside counsel. The SFLC is supported by a variety of donors including vendors and those who use free software.

Aside from resources contributed by the Free Software Foundation and the Software Freedom Law Center, this process will be supported, only to the extent of logistical provision for International Meetings, by industry organizations hosting the events. Outside logistical support is accepted only in order to ensure that participants around the world will have the maximum possible level of access to the discussion process of version 3 of the GPL. All participants in the discussion process can therefore be assured of equal treatment for their interests and concerns.

5.3 Public Statements

During this process the Free Software Foundation will make public statements concerning the process, deadlines, issues, comments, and drafts. Such public statements will be made through announcements at **GPLv3.fsf.org**, and by messages to mailing lists to which parties can subscribe. The Free Software Foundation and SFLC will not hold confidential communications with others concerning version 3 of the GPL. Public commentary on these announcements, as with all comments relating to the GPL version 3 discussion process, should be routed through the GPL comment system described in section 4.1. Interested members of the Press should see 5.4 below.

5.4 Press Contact

Press contacts may occur and statements may be issued to the press through the Free Software Foundation and the Software Freedom Law Center. All such statements will be published at **GPLv3.fsf.org** or referenced there. Press interested in covering this process should follow the contact information available at the website or write to **press@GPLv3.fsf.org**.

Appendix A

Schedule

1. 16-17 January 2006: Initial Conference; release of first public draft
2. June 2006: Second discussion draft
3. September 2006: Earliest possible release date of GPL3
4. October 2006: Possible third discussion draft
5. March 2007: Latest possible release date of GPL3