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A History of the GPLv3 Revision Process

Abstract

The public drafting and discussion of GPLv3 in 2006-07 was a landmark in non-governmental transnational lawmaking. Free and open source software production communities are held together by copyright licensing, as are free cultural production communities like Wikipedia. Their efforts to improve those licenses—to increase their utility in multiple legal systems, to take account of technical and economic changes in the field, and to increase their efficiency of operation and enforcement—are among the most important examples of genuinely democratic, participatory law-making that we have experienced so far in the 21st century.

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AUTHOR(S)

Dr Eben Moglen, JD.

RESPONSIBLE ADMINISTRATOR

Ms Danaï PAPADOPOULOU
Policy Department C - Citizens' Rights and Constitutional Affairs
European Parliament
B-1047 Brussels
E-mail: poldep-citizens@europarl.europa.eu

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ABOUT THE EDITOR

To contact the Policy Department or to subscribe to its newsletter please write to: poldep-citizens@europarl.europa.eu

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LIST OF ABBREVIATIONS

- FSF** Free Software Foundation
- GPL** GNU General Public License
- GPLv2** GPL version 2
- GPLv3** GPL version 3
- SFLC** Software Freedom Law Center

EXECUTIVE SUMMARY

The public drafting and discussion of GPLv3 in 2006-07 was a landmark in non-governmental transnational lawmaking. Free and open source software production communities are held together by copyright licensing, as are free cultural production communities like Wikipedia. Their efforts to improve those licenses—to increase their utility in multiple legal systems, to take account of technical and economic changes in the field, and to increase their efficiency of operation and enforcement—are among the most important examples of genuinely democratic, participatory law-making that we have experienced so far in the 21st century. In the interest of improving both the European Commission's access to the details of this particular process, and to assist it in self-scrutiny, with respect to its extraordinary consistency in missing its opportunities in this area, SFLC submits the records of this process, which it assisted its client, the Free Software Foundation, to design and execute.¹

CREATING VERSION THREE OF THE GNU GENERAL PUBLIC LICENSE (GPLV3)

On January 16th, 2006 the GPL version 3 revision process began with a conference at the Massachusetts Institute of Technology. With approximately 350 participants, including 87 invited delegates serving on one of four discussion committees, this conference served as the public introduction to what would become a nearly 19 month consultation process designed to include every stake holder in one of the most widely used software licenses in the world.

The GPLv2

In January 2006, GPL version 2 was one of the most widely used software licenses in the world, a legal document tying together individuals, groups, governments, and private institutions on every continent. When GPLv2, the first version to achieve widespread adoption, was originally released in June 1991, Free Software was a small movement geographically centered around the Massachusetts Institute of Technology. In the nearly 15 years since that event, Free Software had grown by orders of magnitude, taking its place as a pillar of both business and non-commercial computer usage. The changing software landscape posed challenges for the 15 year old license. In the intervening years software patents had become a reality in the United States, DRM technologies and anti-circumvention laws were creating new restrictions on computer users' freedoms, software licensed under the GPL had spread to a multitude of different legal jurisdictions, and new Free Software licenses

¹While this 19 month transnational consultation process operated entirely on Free Software, the procedures of this Commission require the use of proprietary document production tools and formats in order to discuss it on the public record. This document is the closest approximation to those formats that can be produced using internationally recognized standard formats and Free Software document production tools that are available to all EU citizens. The requirement to use proprietary fonts, formats and tools in discussing EU free and open source software policy is a testament to the incoherence of that policy.

had been written with provisions that made them technically incompatible with the GPL even where they wished to cooperate. Change was needed to address these issues but rewriting the license by itself would have little effect. The GPL itself is not a law and all participants in the community join voluntarily. Changing the legal norms of that community would require a large process of outreach, discussion, and listening to ensure that the final terms of the new license would be not just acceptable but attractive to all members. After six months of planning, the Free Software Foundation and the Software Freedom Law Center launched the GPLv3 revision campaign to do just that.

The Process Definition

From the beginning the GPLv3 revision process was designed to be inclusive and transparent. As such, it began with the release of a Process Definition document ¹ outlining the structure of the revision process. This listed how many drafts were planned, the estimated time frame for their release, what information would be released about the reasoning behind any changes to the license at each stage, how to participate in the process, how that participation would be incorporated in writing new versions, and FSF's guiding principles in revising the license. While the final version of this 22 page document was released on January 15, 2006, just before the first international conference, early versions had been available to the public for six weeks prior to that date. Even in defining the process FSF wished to listen to the community. The final process definition outlined three main avenues for public participation: commenting on the public website, attending one of the international conferences, or participating on one of four discussion committees.

THE PUBLIC CONSULTATION

The Website: Stet

In order to enable direct participation in changing the text of the GPL, and do so on a large scale, the FSF commissioned the creation of a custom software tool named "Stet". Stet's goal was to enable transparent commenting on versions of the license text as they were released. This required both the ability to easily make comments, either through the web or via email, and the ability to see what portions of the text others had commented on. At the time, this kind of collaborative commenting system was completely novel. ² As discussed in the comment system documentation³ every effort was made to ensure that public discussion would remain productive. This was accomplished through a focus on diplomacy and public engagement at all

¹Appendix A, Document 1

²After the successful completion of the GPL revision process, a number of government representatives contacted SFLC and FSF about adopting Stet for use in public discussions of pending legislation. FSF released Stet as free software under the GPL, and it has even been improved upon and enhanced into the "co-ment" (<http://www.co-ment.com/>) system by Phillip Aigrain's Paris-based firm Sopinspace (<http://www.sopinspace.com/>).

³Appendix A, Document 2

times and by requiring each comment be tied to specific language in the draft or language that should be inserted into the draft rather than opening the door to demands and opinions disconnected from license text. As a result, and despite sometimes heated tempers during the course of the 19 month process, the public comments remained productive without any moderation.

In total, 2,635 comments were made over the course of the revision process. All four drafts of the GPLv3 are still available with their public comments visible. As explained in the documentation, areas of the text with highlighting indicate areas with corresponding comments. The color of the highlight indicates the volume of the comments on that section, with yellow as the lowest volume of comments and red as the highest volume. If you wish to view the comments associated with a particular highlighted section simply click on the text and the comments will load on the screen to the right of the license text.

- Draft 1, with 967 comments (<http://gplv3.fsf.org/comments/gplv3-draft-1>)
- Draft 2, with 727 comments (<http://gplv3.fsf.org/comments/gplv3-draft-2>)
- Draft 3, with 649 comments (<http://gplv3.fsf.org/comments/gplv3-draft-3>)
- Draft 4, with 292 comments (<http://gplv3.fsf.org/comments/gplv3-draft-4>)

Public events

For those who could not or did not wish to participate in the license revision process online, a series of conferences and community events were organized where individuals could discuss their concerns and ideas directly with representatives from the FSF and SFLC. In total 18 events were held in a dozen countries. These events included five conferences organized specifically for the discussion of the GPL revision:

- January 16th, 2006. Boston
- April 21st, 2006. Porto Alegre
- June 22nd and 23rd, 2006. Barcelona
- August 23rd, 2006. Bangalore
- November 21st and 22nd, 2006. Tokyo
-

To expand the discussion further, community organizations and conference organizers were encouraged to put together sessions at related conferences:

- February 10th, Bologna, Italy: Incontro al Master in Tecnologie del Software Libero
- March 18th, Torino, Italy: GPLv3 presented by Richard Stallman
- May 12th, Milano, Italy: Giornata di studio sul TCPA
- May 29th, Manchester, UK

- August 29nd, Dataföreningen Region West, Sweden
- August 30th, Copenhagen, Denmark: “Do you know enough about GPLv3?”
- September 6th. Oruro, Bolivia: VI Congress on Free software
- September 9th, Pisa, Italy: Lesson at Master for management of Free Software
- September 15th, Berlin, Germany: GPLv3 workshop at WOS4
- September 26th, Dublin, Ireland: GPL: What can v3 improve?
- October 13th, 14th, 15th. Mendoza. Argentina
- November 4th, Dublin, Ireland: GPLv3, DRM, and the Linux kernel
- April 1, Brussels, Belgium: GPLv3 - Improving a Great Licence

Further details and event records for all these GPLv3 related meetings are available from http://gplv3.fsf.org/wiki/index.php/Event_Planning

Discussion Committees

In addition to these methods of encouraging individual participation, four discussion committees were formed to give representatives of the different groups with a stake in the license a forum for expressing the concerns of their communities and coordinating with each other. Members of these committees were asked to both represent their particular communities and to actively seek out and engage other members of those communities so that everyone with a concerns about the license would have a voice.

The committees were loosely organized into individual users and developers (Committee D)¹, commercial distributors and users (Committee B)², non-profit distributors and public or private institutional users (Committee C)³, and representatives of international communities and large free software projects using non-GPL licenses (Committee A)⁴. In total 87 representatives from these different communities were invited to form the committees with each committee also given the ability to add what other members they saw fit.

Each committee had a representative from the Free Software Foundation participate during meetings in order to help ensure that the discussions there were taken into consideration in preparing the next draft of the GPL. Each committee was given control of how and when they would meet and how much of their discussions they would make public. While Committee D choose to meet in public irc rooms and on a publicly archived mailing list, Committee B met mostly in person or on the phone and opted to keep their discussions confidential until six months after the license’s release. Committees A and C opted for less formal rules. Many of these discussion materials are still available today, including the full minutes from Committee B (<http://gplv3.fsf.org/discussion-committees/B/Minutes/>) and both the irc (<http://gplv3.fsf.org/discussion-committees/D>) and mail (<http://gplv3.fsf.org/pipermail/committee-d/>) records from Committee D.

¹Committee D materials - <http://gplv3.fsf.org/discussion-committees/D/members>

²Committee B materials - <http://gplv3.fsf.org/discussion-committees/B/memberlist>

³Committee C materials - <http://gplv3.fsf.org/discussion-committees/C/memberlist-public>

⁴Committee A materials - <http://gplv3.fsf.org/discussion-committees/A/committee-A-bios>

In total these committees met for 80 or more hours during the course of the revision process.

THE DRAFTS

In total, four discussion drafts were promulgated by the FSF, though the initial process document had only anticipated three. The need for an additional draft was recognized when Microsoft and Novell announced their joint patent agreement on November 2, 2006. Each discussion draft was accompanied by a rationale document. These documents contained the details of changes made since the previous version along with detailed reasons for each modification. The first rationale presented the FSF's goals in beginning the GPL revision process and an introduction to the modifications made since the GPLv2. Each subsequent rationale took the form of a strike-through version of the license highlighting the changes made between draft versions and footnotes explaining the reasons for each modification. Copies of all documents are attached in Appendix A ¹

- 1st discussion draft: <http://gplv3.fsf.org/gpl-draft-2006-01-16.html>
 - side by side comparison between GPLv2 and GPLv3-draft1: <http://www.groklaw.net/articlebasic.php?story=20060118155841115>
 - rationale: <http://gplv3.fsf.org/gpl-rationale-2006-01-16.html>
 - Transcript of presentations at GPLv3 launch conference on January 16th, 2006: <http://www.ifso.ie/documents/gplv3-launch-2006-01-16.html>
- 2nd draft: <http://gplv3.fsf.org/gpl-draft-2006-07-27.html>
 - rationale (pdf): <http://gplv3.fsf.org/gpl3-dd1to2-markup-rationale.pdf>
- 3rd draft: <http://gplv3.fsf.org/gpl-draft-2007-03-28.html>
 - rationale (pdf): <http://gplv3.fsf.org/gpl3-dd3-rationale.pdf>
 - FAQ: <http://gplv3.fsf.org/dd3-faq>
- 4th draft (final call): <http://gplv3.fsf.org/gpl-draft-2007-05-31.html>
 - rationale (pdf): <http://gplv3.fsf.org/gpl3-dd4-rationale.pdf>
- Final GPL text: <http://www.gnu.org/licenses/gpl-3.0.html>
 - rationale (pdf): <http://www.gnu.org/licenses/gpl3-final-rationale.pdf>
 - Announcement video: http://gplv3.fsf.org/static/release/rms_gplv3_launch_high_quality.ogg
 - Transcript of announcement video: http://gplv3.fsf.org/rms_gplv3_launch_transcript
 - FSF's "Quick Guide to GPLv3" about final license: <https://www.gnu.org/licenses/quick-guide-gplv3.html>

¹Appendix A, Documents 3-17

CONCLUSION

The GPLv3 process, documented in the foregoing materials, shows how highly specialized and economically sensitive law-making can be undertaken in a non-hierarchical and cooperative fashion, allowing individuals and powerful commercial organizations equal opportunities for participation. FOSS licensing can and should be done, as most forms of transitional regulation should be achieved, in multilateral cooperative processes.

The European Commission was invited to participate in the making of GPLv3. Jesus Villasante of DGInfo attended the initial international conference at MIT on January 16, 2006, and was invited to join Discussion Committee B. The Commission declined to participate, on the ground that it could only participate in government-to-government processes, and although other governments (the Commonwealth of Massachusetts, for example) were participating, they were not governments of the Commission's level of dignity and importance. It seems appropriate, on the present occasion, to refresh our recollection of these events.

ANNEX A

| | |
|----|---|
| 1 | GPLv 3 Process Document |
| 2 | “Stet” Comment System documentation |
| 3 | Discussion Draft 1 |
| 4 | Discussion Draft 1 – Rationale |
| 5 | Side-by-side comparison between GPLv2 and GPLv3 Discussion Draft 1 |
| 6 | Transcript of presentations at GPLv3 launch conference |
| 7 | Discussion Draft 2 |
| 8 | Discussion Draft 2 – Rationale |
| 9 | Discussion Draft 3 |
| 10 | Discussion Draft 3 – Rationale |
| 11 | Discussion Draft 3 – FAQ |
| 12 | Discussion Draft 4 |
| 13 | Discussion Draft 4 – Rationale |
| 14 | GPLv3 |
| 15 | Final version Rationale |
| 16 | GPLv3 Announcement video (transcript) |
| 17 | “Quick Guide to GPLv3” |

