

Implementing 'Free' or 'Open Source' Software licences



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Overview

Some Basic Concepts

4 Case Studies of Open source
commercialisation

What are the benefits of open source?

Customer's perspective on Open Source

Comments on Choice of Licence

Background

“Free as in market”, “Open as in competition”

Free Software Foundation (FSF)

Open Source Initiative (OSI)

Open Source Definition

OSI Approved Licence

Strong v weak licensing

GPL v LGPL v BSD

“GPL compatible”

Misconceptions

Open source is not anti-IP or anti-copyright

Not about charity, altruism, welfare or subsidies – if it doesn't return a benefit commensurate with cost don't do it

Doesn't involve giving up copyright

Complement of open is closed

Complement of proprietary is public domain - not open source and not free software [however this is broadly honoured in the breach]

Complement of commercial software is non-commercial software not FOSS

Code doesn't need to be complete or all singing to be open sourced



Part 1
Some Case Studies

Squiz.net – Open core/ Closed add ons

- *CMS product with “core” and add on modules similar to loss leadering of the core.*
- *Core under custom licence, not OSI approved, but Squiz assert it meets the OSD*
- *Modules are licensed on a closed basis*
- *Squiz also provide support, customisation and implementation services*
- *Permits organic growth of customer base, with potential for later consulting work or sale of modules.*
- *Not clear that modules approach is long term viable*

MySQL – Dual licence

- *Database software*
- *Widely implemented*
- *MySQL AB has three main sources of revenue (from MySQL website):*
 - *Online support and subscription services;*
 - *Sales of closed source MySQL licenses to users and developers of software products and of products that contain software (ie dual licensing)*
 - *Franchise of MySQL products and services under the MySQL brand to value-added partners.*
- *Share alike requirements of GPL give opportunity for MySQL to value add by offering different licence terms*
- *More users means more support opportunities*

Blender – Code Escrow/Ransomware

- *Originally developed by NeoGeo*
- *Marketed by “Not a Number”*
- *Developed large customer base*
- *Company's fortunes faded, Blender development ceased*
- *Subscription model raised capital to purchase rights to Blender Oct 2002*
- *Blender released open source version 2.26 in Feb 2003 under GPL*
- *Permits developer to name price for sale of code*
- *<http://www.blender3d.org/cms/History.53.0.html>*

Red Hat – Product Sales, Support

- *“Red Hat was established in 1994 and has become the largest and most recognised company dedicated to open source.” (from Red Hat web site)*
- *Take existing packages, integrate them, brand them and release them*
- *Do some development, but value of product not primarily from Red Hat created work.*
- *Sell product, provide support and maintenance, training, implementation services*
- *Business built on the sale of boxed product and associated services even though the same product was available for free over the internet*
- *Proves that can be a successful business without copyright preventing reproduction of sole product*



Part 2

Why Free Software/ Open Source?

Magical Benefits provided by FOSS licensing to Vendors

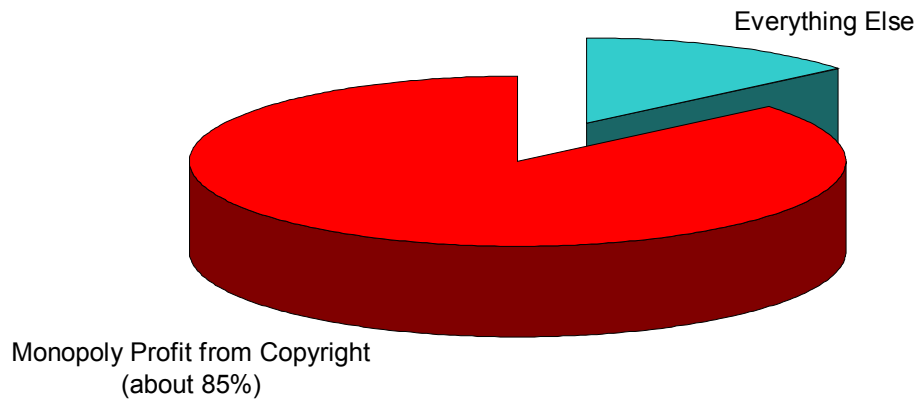
- *Simple rules easily applied*
- *Channel access, channel management*
- *Advertising, marketing*
- *Distribution chain*
- *Leverage*
- *Level playing field/greatly reduced barriers to entry
(related to channel access issue above)*

Closed Licensing

- *Supports owners of distribution channels to the detriment of owners*
- *Permits supranormal profits for oligopolists, subnormal profits for SMEs*
- *Over long term (appears to) inevitably lead to severe rationalisation of market, creating monopoly/monopsony point or oligarchy in any given market segment*
- *Appears to entrench position of incumbents, severely limiting competition effectively a subsidy by SMEs of Large Enterprise and monopoly providers*
- *IOW: Policy failure for vast majority of copyright owners*

Microsoft Profit on Windows, Office

Actual Breakdown (Microsoft Office, SEC filing 2002)



Reference: <http://zdnet.com.com/2100-1104-966219.html> (November 2002)



Part 3

A Customer Organisation's Point of View

Customer Motives

- Maximise return on IT investment
- Customers spent \$\$\$ on software development – ie no speculation involved so copyright is playing no part in providing an incentive for development
- Can use it in house (ROI=productivity improvements) or commercialise it (ROI = productivity improvements + benefit stream)
- Key problem is too many customers have been told to think like a vendor, not like a customer, so current approaches to commercialisation (on a closed model) are harmful to those customers.

Closed Model

- Benefit stream denominated in money
- Closed model only relevant if selling as a product
- Lots of reasons why difficult – need to polish product (80/20 rule) need to create documentation, may be too needs specific, need to establish channels, sales force, diversion from/not related to core function of organisation etc etc etc
- Hard to licence to third parties for \$\$\$ because of nature of material produced
- Requires ongoing management

Open Model

- Benefit stream denominated in code improvements and therefore cost reductions or increased capabilities
- Minimal up front cost (if development planned properly)
- Can “set and forget” or can take more active role
- Leverage => value of improvements greatly increased on average when compared to acquiring closed source
- Not necessarily forever

Customer implementing an Open model

- Preferable to preplan code release as part of development
- However can open source existing code
- When you retain a developer, require them to open source the development work that you fund
- Requires more understanding of licensing implications including of TPA.
- Not appropriate for:
 - Confidential information
 - Competitive differentiators
 - Niche products



Part 4

Some comments on Choice of Licence

Who's afraid of the GPL?

- Over 50 OSI approved licences, not in a position to review all of them. Most prominent is GPL
- Overwhelmingly endorsed by: open source developers, accounts for 70% of all projects on Sourceforge
- Opposed by: Microsoft, Microsoft funded independent analysts, Microsoft funded academic studies, Microsoft stooges.
- Also opposed by organisations which want to take the benefit of other's work without fair compensation (eg MySQL below)

Significance of GPL v BSD

- GPL – you fund a common resource that could be used by your competitors. Competitors can only extend resource by contributing to it.
- BSD – you fund a common resource that could be used by your competitors. Competitors can take what they like from resource with no requirement to contribute.
- MySQL: LGPL -> GPL
- GPL supports dual licence commercialisation – BSD can't.
- Typically GPL more consistent with objectives of an organisation when open sourcing, but often encumbered by perceptions about its ideology

Thank You

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References

The following papers:

John-Paul Syriatowicz - Open Source in the Public and Private Sectors, How it Compares

<http://www.osia.net.au/content/download/305/1315/file/JP%20Syriatowicz%20IBC%20Open%20Source%202004.ppt>

TCO: Why Free Software's Long Run TCO Must be Lower

Policy: Four Free Software Fallacies

The term "Lock in": Lock in Software

Access Regimes and Govt: Draft Software Access Regime White Paper

Available from:

www.members.optusnet.com.au/brendanscott/papers

For a starting point on open source generally:

<http://members.optushome.com.au/brendansweb/opensource/>