

EARTO Analysis of Recital 5 of Horizon Europe's Regulation

5 February 2020

Ahead of the trilogue discussions on the Recitals of the Horizon Europe's Regulation, EARTO hereby proposes the following text for Recital 5.

Row	EC Proposal	EP Report	Council PGA	EARTO Proposed text
14	<p>Recital (5) Open science, including open access to scientific publications and research data, has the potential to increase the quality, impact and benefits of science and to accelerate the advancement of knowledge by making it more reliable, more efficient and accurate, better understandable by society and responsive to societal challenges.</p>	<p>Recital (5) Open science, including open access to scientific publications and research data, has the potential to increase the quality, impact and benefits of science and to accelerate the advancement of knowledge by making it more reliable, more efficient and accurate, better understandable by society and responsive to societal challenges.</p>	<p>Recital (5) Open science, including open access to scientific publications and research data, as well as optimal dissemination and exploitation of knowledge has the potential to increase the quality, impact and benefits of science and to accelerate the advancement of knowledge by making it more reliable, more efficient and accurate, better understandable by society and responsive to societal challenges.</p>	<p>Please retain the Council text with the following amendment: Recital (5) Open science, including open access to scientific publications and research data, as well as optimal dissemination and exploitation of knowledge has have the potential to increase the quality, impact and benefits of science and to accelerate the advancement of knowledge by making it more reliable, more efficient and accurate, better understandable by society and responsive to societal challenges.</p>
	<p>Provisions should be laid down to ensure that beneficiaries provide open access to peer-reviewed scientific publications, research data and other research outputs in an open and non-discriminatory manner, free of charge and as early as possible in the dissemination process, and to enable their widest possible use and re-use.</p>	<p>Provisions should be laid down to ensure that beneficiaries provide open access to peer-reviewed scientific publications, research data and other research outputs in an open and non-discriminatory manner, free of charge and as early as possible in the dissemination process, and to enable their widest possible use and re-use. As far as research data is concerned, the principle should be "as open as possible, as closed as necessary", therefore recognising the need for different access regimes because of the Union's economic interest, Intellectual Property Rights, personal data protection and confidentiality, security concerns and other legitimate interests.</p>	<p>Provisions should be laid down to ensure that beneficiaries provide open access to peer-reviewed scientific publications, research data and other research outputs in an open and non-discriminatory manner, free of charge and as early as possible in the dissemination process, and to enable their widest possible use and re-use. Likewise it should be ensured that beneficiaries provide open access to research data following the principle "as open as possible, as closed as necessary" and allowing exceptions for valid reasons relating to data protection rules and security interests as well as intellectual property rights, European Union global economic competitiveness and other legitimate interests.</p>	<p>Please retain the Council text: Provisions should be laid down to ensure that beneficiaries provide open access to peer-reviewed scientific publications, research data and other research outputs in an open and non-discriminatory manner, free of charge and as early as possible in the dissemination process, and to enable their widest possible use and re-use. Likewise it should be ensured that beneficiaries provide open access to research data following the principle "as open as possible, as closed as necessary" and allowing exceptions for valid reasons relating to data protection rules and security interests as well as intellectual property rights, European Union global economic competitiveness and other legitimate interests.</p>
	<p>More emphasis should in particular be given to the responsible management of research data, which</p>	<p>More emphasis should in particular be given to the responsible management of research data, which</p>	<p>More emphasis should in particular be given to the responsible management of research data, which should comply with the</p>	<p>Please retain the EP text with the following amendment: More emphasis should in particular be given to the</p>

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	should comply with the FAIR principles of 'Findability', 'Accessibility', 'Interoperability' and 'Reusability', notably through the mainstreaming of Data Management Plans. Where appropriate, beneficiaries should make use of the possibilities offered by the European Open Science Cloud and adhere to further open science principles and practices.	should comply with the FAIR principles of 'Findability', 'Accessibility', 'Interoperability' and 'Reusability', notably through the mainstreaming of Data Management Plans. Where appropriate, beneficiaries should make use of the possibilities offered by the European Open Science Cloud and the European Data Infrastructure and adhere to further open science principles and practices.	FAIR principles of 'Findability', 'Accessibility', 'Interoperability' and 'Reusability', notably through the mainstreaming of Data Management Plans. Where appropriate, beneficiaries should make use of the possibilities offered by the European Open Science Cloud and adhere to further open science principles and practices.	responsible management of research data, which should comply with the FAIR principles of 'Findability', 'Accessibility', 'Interoperability' and 'Reusability', notably through the mainstreaming of Data Management Plans. Where appropriate, beneficiaries should make use of the possibilities offered by the European Open Science Cloud and the European Data Infrastructure and adhere to further open science principles and practices.

➤ Background: Open Science and Exploitation & Dissemination of results

As stated in the [Lamy report](#): "Data from publicly-funded research should be easily accessible and re-usable across disciplines with due protection of partners' legitimate interests, especially intellectual property." Indeed, industry is usually only willing to invest in R&D leading to a competitive edge over entities that have chosen not to invest. Open science rules need to be balanced to ensure efficient collaboration and co-creation of knowledge, preserving scientific freedom and stakeholders' legitimate interests.

Therefore:

- Open access to Research data must be in line with the principle "as open as possible as closed as necessary", and the relevant safeguard (IPR, confidentiality, commercial interests, etc.) need to apply, as cited in the EP text *"taking into consideration the legitimate interests of the beneficiaries and any other constraints, such as data protection rules, privacy and security rules or as well as intellectual property rights, confidentiality, or the Union's global economic competitiveness"*.
- The term research output is too broad: it should not be used. The scope should be clearly limited to scientific publications and research data.
- The emphasis should be on the availability and wide dissemination of scientific publications and research data rather than on the absence of pricing, in order to preserve the crucial element of shared value capture required for Open Innovation.
- To ensure legal certainty, new obligations should not be added, therefore any reference to not-yet-defined "further open science principles and practices" should be avoided.
- The dissemination and exploitation of research results should indeed be incentivised, however the prerogative of exploiting or using research results should always lie with their owner(s).
- Open science rules need to be balanced to ensure efficient collaboration and co-creation of knowledge, preserving scientific freedom and stakeholders' legitimate interests. Not all research results can be made publicly available. The necessary safeguards must be applied.
- The possibility of adding new obligations with respects to these articles would deny legal certainty.
- The dissemination and exploitation plan would not be supported after the project ends.

EARTO remains of course ready to further discuss these recommendations with the European Institutions' representatives.

RTOs - Research and Technology Organisations

From the lab to your everyday life. RTOs innovate to improve your health and well-being, your safety and security, your mobility and connectivity. RTOs' technologies cover all scientific fields. Their work ranges from basic research to new products and services' development. RTOs are non-profit organisations with public missions to support society. To do so, they closely cooperate with industries, large and small, as well as a wide array of public actors.

EARTO - European Association of Research and Technology Organisations

Founded in 1999, EARTO promotes RTOs and represents their interest in Europe. EARTO network counts over 350 RTOs in more than 20 countries. EARTO members represent 150.000 highly-skilled researchers and engineers managing a wide range of innovation infrastructures.

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