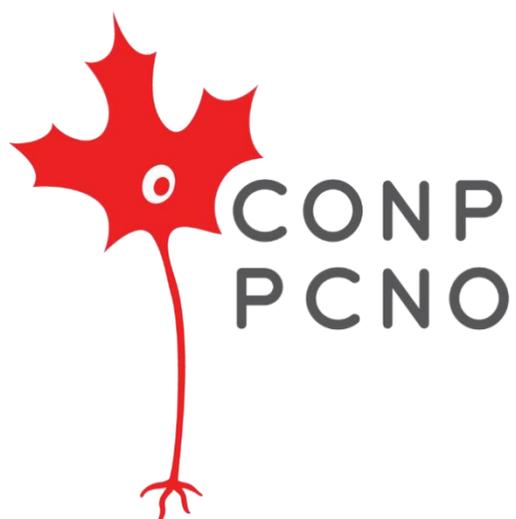


**July 18, 2019**

**DRAFT - CONP Commercialization  
Policy**



DRAFT – CONP Commercialization Policy

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**This Policy is Still Under Development** – The CONP Commercialization Policy is still under development and may change depending on feedback from stakeholders. This document should be thought of as a preprint draft to enable community engagement and input.

The CONP Portal Terms of Use, CONP Portal Contributor Agreement, and the various pages referred to within this document are also still under development. They will be shared with the community for comment as initial versions become ready for release. As such most blue-underlined text are not hyperlinks but indicate where hyperlinks will be.

We welcome all input on the contents of this document. Any feedback or questions can be sent to Dylan Roskams-Edris at [dylan.roskamsedris@gmail.com](mailto:dylan.roskamsedris@gmail.com). Please respond with feedback by August 17<sup>th</sup>, 2019 and include your name and relationship to the CONP community in your email.

## **CONP Commercialization Policy**

### **Preamble**

To meet the goals of open science and respect the dual human rights of everyone to benefit from scientific advancements and of scientists to be recognized for their contributions (*Universal Declaration of Human Rights*, art.27), this Commercialization Policy provides guidance for building an innovative, open platform to accelerate discovery and promote health benefits. This Commercialization Policy should be read with reference to both CONP's mission and its *Ethics and Data Governance Framework*.

### **1.0 Commercialization Policy Background**

1.1 The Canadian Open Neuroscience Platform (CONP) believes that enabling neuroscientists to openly share their research resources and ideas will increase the rate of discovery. Some of these discoveries will have commercial application and eventually lead to products and services useful to researchers, physicians, patients, and the public.

1.2 The CONP wants to encourage the development of useful products and services while at the same time ensuring that the resources its users share remain open and freely usable. To do so the CONP has developed a Commercialization Policy that strikes a balance between ensuring that shared resources are protected from attempts to lock them up behind restrictive intellectual property while at the same time enabling and encouraging their use in commercial development.

1.3 This policy document explains of how the CONP helps foster collaboration in a complex distributed research setting. The primary approach is to encourage open science by identifying best practices and providing relevant and easily digestible information to users. The CONP [Portal Terms of Use](#) and [CONP Portal Contributor Agreement](#) apply conditions on how certain resources can be shared and used to ensure that what users find on the CONP Portal is as openly accessible and useable as possible. The conditions relate to citation practices and limiting restrictions imposed by intellectual property. Any conditions on use are posted on every resource landing page and conditions on contribution are made clear during the contribution process.

### **2.0 Patents and Resources Shared Through the CONP Portal**

**2.1 Background Information** - Patent protection has traditionally been a key element in the commercialization of biotechnology. When a patent is granted for an innovation the owner of the patent has the right to exclude others from using, developing, or distributing it for commercial purposes. In simple terms, the patent puts a wall of legal protections around an innovation and allows the owner to grant or deny others the ability to use it, putting a toll in the path of free-flowing information and research resources.

**2.2 Rationale** - To avoid stifling collaboration the resources shared through the CONP Portal should be as free from restrictive patent rights as possible. This doesn't mean that entities interested in using resources shared

through the CONP Portal to develop patentable innovations cannot do so, but that any resulting patents should not interfere with how others access and use resources shared through the CONP Portal.

**2.3 Patenting Shared Resources** - As reflected in the [CONP Portal Terms of Use](#) users agree not to attempt to obtain patent rights over the resources shared by other users through the CONP Portal.

**2.4 Keeping Shared Resources Free of Patent Restrictions** - As reflected in the [CONP Portal Contributor Agreement](#), users who share resources agree that either (1) they have no patent rights covering resources shared through the CONP Portal or, (2) if any such patent rights exist that anyone accessing the resource through the CONP Portal has permission to use it on a royalty-free basis for any purpose.

**2.5 New Patent Interference with Shared Resources** – Novel innovations developed by incorporating or building upon resources shared through the CONP Portal may be patented; however, the owner of any such patent rights should not attempt to use those rights to prevent others from accessing or using any resources shared through the CONP Portal.

**2.6 Citing Shared Resources in Patents** – Those who apply for patents covering innovations based in any way on resources shared through the CONP Portal should cite those resources in the patent application using at least (1) the DOI from the resource landing page and (2) any resource specific citation preference. Doing so both appropriately shares credit and creates the links between resources required to move open science forward.

**2.7 Licensing Patents Enabled by Shared Resources** - If a patent is obtained for innovations that are based in any way on resources shared through the CONP Portal the owner of those rights is strongly encouraged to license the invention in such a way that researchers, physicians, and non-profit organizations are able to use the innovation on a royalty-free basis.

**2.8 Avoiding Overbroad Patent Claims** - If a patent is obtained for an innovation based in any way on resources shared through the CONP Portal the applicant is strongly encouraged to make sure that the claims within the patent are not overbroad. An overbroad patent is one that claims more than is clearly and concretely indicated by the evidence on which the patent is based.

**2.9 Alternatives to Patenting** - If users want to share information and resources free of any patent restrictions but are concerned that the resources they share may be appropriated by others they are encouraged to look into patent pools, defensive patents, and the effect of public disclosure on patentability.

**2.10 Additional Information** - For more information on patents, licenses, overbroad patents, and alternatives to patenting please visit the CONP's [Open Science and Intellectual Property Information](#) page.

### **3.0 Copyright and Data Shared Through the CONP**

**3.1 Background Information** - While data is usually exempt from copyright protection it can happen that - because of the nature of the data within a dataset, how the parameters of data collection were designed, or how the data was later processed - datasets shared through the CONP Portal may be subject to copyright

protection. Like patents, copyright allows the owners of the copyright to restrict how others can use the copyrighted resource. Copyright restrictions can be modified to comply with the principles of open science by the owner agreeing either to waive those rights (which puts the resource in the public domain) or to apply an open license.

**3.2 Rationale** - Open data means that those who access the data have to be free to use it, remix it, combine it, modify it, adapt it, and otherwise alter it to fit their needs. This kind of freedom can only be ensured if those sharing their data either waive their rights or apply an open license.

**3.3 Rights Waiver or Open License for Shared Data** – As reflected in the [CONP Portal Contributor Agreement](#), those who share data through the CONP must either (1) waive rights in the data to the extent allowable by law (e.g. [PDDL](#)), or (2) apply an open attribution-only license where the only requirement is that those who use the data attribute credit to those who created and shared the data (e.g. by applying a [ODC-BY](#) license).

**3.4** By agreeing to the [CONP Portal Contributor Agreement](#) the contributor affirms that they have permission to apply a rights waiver or open license to any rights owned by them or their partners.

**3.5 Additional Information** - For more information about data copyright, open licenses, and how they apply to certain resources shared through the CONP Portal please visit the CONP's [Open Science and Intellectual Property](#) page.

#### **4.0 Copyright and CONP Portal Software Pipelines**

**4.1 Background Information** - The CONP Portal will enable users to create pipelines between it and software sharing platforms (e.g. [Github](#)) and apply those pipelines to the data shared through the CONP Portal. While the use of many innovations is restricted through patent protection, because of the way intellectual property laws work the use of software is often restricted through copyright. Unlike patents, which must be applied for, copyright applies automatically and must be either waived or openly licensed to prevent restrictions on use.

**4.2 Rationale** - Open development of software means that other users must be able to adapt the software to their needs. The best way of ensuring this openness is to make sure that the platform where the software is shared applies either a rights waiver or open software license.

**4.3 Rights Waiver or Open License for Shared Software** - When creating CONP Portal software pipelines users should make sure that the software linked to is shared under either a rights waiver or an open license (e.g. [GNU General Public License](#)). Users will be able to specify which license applies to the pipelined software during the pipeline creation process.

**4.4 New Copyright Interference with Shared Software** - If any software accessed through the CONP Portal is modified such that copyright is obtained in the modified software the copyright owner should not to use those rights to interfere with the free use of the originally shared software.

**4.5 Licensing and Sharing of Modified Software** - If any software accessed through the CONP Portal is modified such that copyright is obtained in the modified software the copyright owner should either re-share that software and apply a rights waiver or open license, or provide that software on a royalty-free basis to CONP partners upon request.

**4.6 Additional Information** - For more information about software copyright and open licenses please visit the CONP's [Open Science and Intellectual Property](#) page.

## **5.0 Copyright in Visual or Textual Research Outputs**

**5.1 Background Information** – In addition to data and software CONP Portal users may share other research outputs, such as publications, posters, presentations, and visualizations. Like data and software, it is important that other users can use and adapt these outputs. Someone might, for example, include a video of brain activity shared on the CONP Portal in a conference presentation.

**5.2 Rationale** - In the spirit of open science visual and textual research outputs should also allow other users to access, use, and adapt them. Doing so disseminates findings as quickly as possible and allows others to build on previous work.

**5.3 Rights Waiver or Open License for Shared Text and Visualizations** – As reflected in the [CONP Portal Terms of Use](#), any textual or visual research output shared by users through the CONP must be shared either under a rights waiver (e.g. [CC0](#)) or an attribution-only license (e.g. [CC-BY 4.0](#)). Users may share under either of these approaches by clearly marking the shared output with an indicator of the license chosen. In cases where there is no such indication the output is shared by default under the same attribution-only license used by the CONP for the content it generates.

**5.4 Additional Information** - For more information about copyright in text and visualizations, and open licenses, please visit the CONP's [Open Science and Intellectual Property](#) page.

## **6.0 Copyright in Outputs Generated by Applying Software Pipelines to Data**

**6.1 Background Information** – The CONP Portal will allow users to generate outputs by applying software pipelines to shared data. While it is difficult to know exactly what outputs may be produced in this way there are four exemplary use cases: (1) visualizations, (2) textual summaries, (3) statistical summaries, and (4) new datasets.

Visualization software may be applied to a dataset to generate a visual representation (e.g. video or graph) of that data; text mining or gisting software may be applied to a dataset that includes text as data to generate a synthesis of that text or an automatically generated textual report; statistical software may be used on a dataset to detect correlations or generate statistics to describe the dataset; processing software or artificial intelligence software may be applied to generate derived datasets or novel datasets generated through training an AI system.

**6.2 Rationale** – To promote open science and fairness, the outputs of using openly shared software pipelines on openly shared data should be openly shared in turn.

**6.3 Rights Waiver or Open License for Pipeline Outputs** – As reflected in the [CONP Portal Terms of Use](#), users agree that any output generated by applying a CONP Portal pipeline to shared data, and which produces a copyrightable output in which the user owns the copyright, is licensed under terms no more restrictive than the data it was used on. If, for example, the data was shared under an attribution-only license the output must be shared under either an attribution-only license or a rights waiver.

**6.4 Additional Information** - For more information about copyright in software outputs and open licenses please visit the CONP's [Open Science and Intellectual Property](#) page.