ARTICLE 3

5 Fundamental Flaws

Of the Text and Data Mining Exception
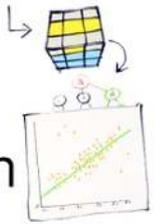
1. IT REVEALS THE **FUNDAMENTAL FLAW OF COPYRIGHT**: SHOULD MINING FACTS/DATA REALLY REQUIRE AN EXCEPTION

The only reason TDM is mentioned in the context of copyright is because, to run an algorithm over thousands of documents in order to identify words, patterns, figures, charts, etc., your computer will need to make a **temporary copy** on a hard disk.

2. THE BENEFICIARIES ARE TOO LIMITED IN **SCOPE**

If TDM is only for '**research organisations**', it a contrario does not benefit companies or individual researchers or journalists and courts could hence consider that those entities can no longer do TDM without additional permissions, even if they already have legal access to content!
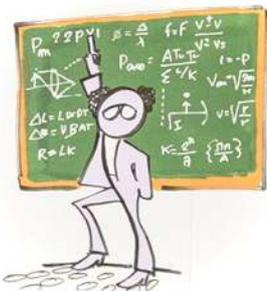
3. THE **PURPOSE** FOR WHICH TDM CAN BE USED IS TOO NARROWLY DEFINED

It only covers '**scientific research**', a scope that could lead to discussions between the proponents of soft sciences (social sciences) and those of hard sciences (natural sciences). It also excludes investigative journalism, for example.

4. THE **TYPES OF MATERIAL** THAT CAN BE MINED IS VAGUE

Can TDM be applied in an unrestricted manner to any type of minable content or does the exception only cover **materials associated with scientific publications?**
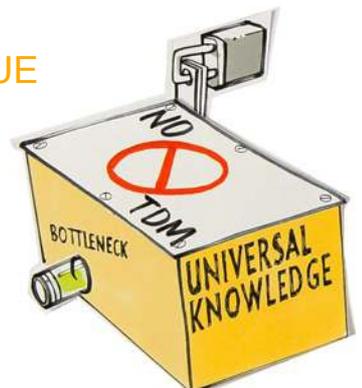
5. THE SECURITY & INTEGRITY MEASURES THAT CAN BE APPLIED BY RIGHTHOLDERS CREATE A **HUGE LOOPHOLE**

If publishers can introduce any measures to protect the 'security and integrity' of their network, **TDM** could simply be made impossible, or researchers could be forced to use only the publishers' platforms. The use of captchas and other restrictions make it already impossible today to run TDM algorithms on certain catalogues.