

## Podcast series

# A Guide to Free and Open Source Software

## Episode 4: Are You Allowed to Sell Copies of Your Free and Open Source Software?

### Summary of Episode 3

Welcome to the fourth and last part of the CCdigital<sup>law</sup> podcast series on free and open source software. In the last three parts you learned how to make software free and open source, what licenses qualify as free and open source software licenses, where you can find the licenses, and you learned about the difference between permissive and copyleft licenses.

### Price of Free and Open Source Software

This fourth part will focus on the price of free and open source software. You have written an email program and you license it under a free and open source software license. You have done a lot of work programming the email program and you would like to make some money with it. Therefore you want to sell copies of your free and open source email program and buyers shall pay you a hundred francs for one copy of your email program.

Are you allowed to sell copies of your free and open source software email program? Yes, this is allowed. You and everyone else who gets a copy of your free and open source email program are free to demand a price for a copy of it. You can charge a million if you want. It is allowed to charge money for copies of free and open source software. For example, you can charge money if someone wants to download a copy of the source code of your email program; or you can charge money if you give someone a USB stick with the object code of your email program; or you can charge money for the print out of your source code on paper.

In all these examples money is exchanged for copies of your email program. The exchange of money for copies is allowed. However, there is something that you are not allowed to charge money for. That is the copyrights. Remember that you automatically became owner of the copyrights that means the exclusive rights to use (make copies, distribute copies and modify copies) the email program that you wrote. It is possible to sell such rights to use. When you allow someone else to make copies of your email program, you can charge a price. This money is charged for the licensing of a copyright. Money that is exchanged for a

license is called license fee or royalty fee or just royalties. The license fee is the price of copyrights but not of copies. If you want to make money with free and open source software it is very important to differentiate between money in exchange for copies of the code, which is allowed and money in exchange for rights, which is not allowed.

So what happens when you sell a copy of your free and open source email program to your friend for a million francs? You will get million francs from your friend and your friend will get a copy of your code and your friend will also get the right to copy, distribute and modify the copy of your code. But the copyrights of free and open source software program are free of charge. So you only sell copies of your email program for a million francs for each copy.

You will not go lower because your email program is the best! Everyone wants a copy of this email program and you want to be a billionaire. What will probably happen next, after you sold just one copy of your free and open source software email program to your friend for a million francs? Your friend has a license to use your right to copy, distribute and modify. Your friend is allowed to sell copies of it for any price that she wants. She could sell it for half a million and the buyers could sell copies for even less until a somewhat reasonable price is reached. This is the reason why the copyrights of free and open source software have to be free of charge.

Remember the definition of free and open source software: it is software that everybody can run, study, copy, modify and distribute. If you could charge a million for the copyrights. You could exclude almost everybody else from copying, modifying and distributing. Which goes against the definition and the spirit of free and open source software. This said most copies of free and open source software is free of charge. Many free and open source software projects are financed through donations. But there are also many businesses that develop free and open source software for example google, red hat and many more. It is also possible to make money around free and open source software, for example, you can sell handbooks, warranties, etc.

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Also if you sold a copy of the machine readable object code of software that is licensed under a GNU GPL, then you can only demand a price not higher than the costs of distribution. This is so that you cannot restrict access to the source code of GNU licensed software. For example, you would give copies of object code away for free but then demand one million for the copy of the source code.

## Summary

To resume, you are allowed to charge money for copies of free and open source software, but you are not allowed to charge money for licensing copyrights of free and open source software. That was it for this last part on free and open source software.

If you have any questions about free and open source software or feedback about this podcast episode, please contact us at [info@ccdigital<sup>law</sup>.ch](mailto:info@ccdigital<sup>law</sup>.ch)

In May 2018 we will answer your questions on the topic of free and open source software online during a webinar. If you are interested in it please subscribe to the webinar on [www.ccdigitallaw.ch](http://www.ccdigitallaw.ch)

### Credits

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