

APELL

Association Professionnelle
Européenne du Logiciel Libre

The European Open Source
Software Business Association

The APELL Ideas Conference 2022

Report

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1. Introduction

The European Open Source Industry grown 20-fold since the early 2000s. Meeting such an increasing demand, however, comes with challenges. The important augmentation of digital legislation at the national and European Union level has given Open Source businesses a chance to shape the future of their industry. The setting up of a new digital framework and significant funding towards innovation cannot be done without European Open Source actors, who are essential to the European digital ecosystem.

That's why on the 16th June 2022, APELL held its first conference in Strasbourg, France, co-organized by CNLL, the French national open source business association, and graciously hosted by Le Shadok, Strasbourg's Digital Factory. Gathering major actors from 9 different European Open Source organizations across Europe, this conference was the first step towards giving this community a common voice.

2. About APELL

Founded in 2020, APELL is Europe's Open Source Business Association. With the objective of empowering its Association's member organisations, engage with the EU institutions to raise awareness, represent and advocate for Open Source businesses, APELL has managed to gather an important community. Representing Business associations from Finland, France, Germany, Sweden, Portugal, the UK, the Netherlands and Italy, APELL's structure makes it the perfect platform for shaping the future of Open Source Business in Europe.

“APELL's mission is to bring national Open Source Software organizations together into a European network and to provide them with peer support, collective marketing, and policy support for public affairs, in order to increase opportunities for the members of the Association's member organizations, and to increase value and advancement for the ultimate customers in both the public and the private sectors”

3. APELL's President's message

“This first conference organized by APELL with the support of its member associations was an opportunity to lay the foundations for a common reflection among European free software entrepreneurs on the issues at stake in the growth of the ecosystem and on the solutions to be put in place to meet the challenges of its growth. It also allowed the constitution of a “core group” of people who will continue to exchange and work on these issues in the months and years to come, at both European and national levels.”

- Stefane Fermigier, president of APELL

3. Conference Structure

Held at Le Shadok, Strasbourg's Digital Factory, the conference had for theme **“The Future of Open Source Business in Europe”**. About 30 persons, coming from all over Europe, attended the workshop. Most of them were CEOs or founders of European open source business, active in their respective national ecosystems, with the addition of several other experts.

Starting with a presentation of APELL and of the conference programme, participants then had the opportunity to reflect and exchange around three different problematics. Organized in three different groups, all participants showed great interest and allowed for more than instructive debates on those important questions. The questions were as follows:

Question 1: How can the European open source industry build capacity to meet increased demand?

Question 2: How can governments invest into the European open source industry?

Question 3: What kind of pro-competitive regulation can lower the barriers to compete for open source companies?

The participants worked throughout the morning and afternoon on these subjects, switching groups to allow for the maximum diversity of perspective. Taking inspiration from the collaborative experience of Open Source, the attendees brought out of these discussions some new perspectives that could have not been developed without this diversity of standpoint and mode of organization. Sharing their difficulties and success, it was a great experience for the community to come together and progress as one.

After those fruitful exchanges, each group's rapporteurs gathered reflection's outputs and presented them to all the attendees. This presentation was then followed by a Keynote presentation from Frederik Blachetta, Chief Strategy Officer at Dataport. With an important experience and understanding on Open Source in Europe, Frederik Blachetta brought a different perspective to the possible futures of OSS.

Finally, all the participants engaged in a One-minute presentation of themselves and their company, allowing all participants to get to know each other better. This was then continued during the evening with a networking dinner.

II./ Conference Takeaways

WG 1: How can the European open source industry build capacity to meet increased demand?

Faced with the growing needs and interest of public and private actors in OSS, European OSS actors need to develop their production capacities. It appeared essential for APELL to see how the main European OSS players were planning their development to be able to respond to the needs of consumers and allow for greater and more effective innovation. Similarly, the issue of training and collaboration within this framework was addressed to plan short and long-term solutions. Moderated by Timo Väliharju, the participants in the focus group discussed the following possibilities:

- **On the growth of OSS companies:**

Existing OSS companies have to face the question of their growth, both as a company and as a sector, but how to organize this?

- Do OSS company really want or need to grow?
- Is there sufficient expertise to develop the current businesses?
- Does the OSS stand for philanthropic principles?
- OSS companies require funding to grow beyond a certain size.

- **Consolidation and startups:**

Existing OSS companies also have the potential to cooperate with each other and to better coordinate their efforts. The principles of OSS allow for different forms of competition than in traditional company economies, which also allows for better integration of new actors.

- There is a need to consolidate the current OSS market
- There is also a need to expand in the market
- Startup nurturing and funding is of importance
- How to stimulate and enable Venture Capital Funding for OSS companies?

- **Training and education**

While the growth of OSS companies is still increasing, the capacity to do so also depends on the recruitments of new professionals that have been properly trained in OSS technologies.

- OSS needs to invest into training material and trainers
- Proprietary vendors have a very well-funded strategy for education on their technologies.
- Trainers and students receive free software and hardware for their training from proprietary vendors, how can OSS compete with that?
- Support universities to embrace an OSS mindset in academic curricula, for reasons stated above. This also includes connecting to OSS communities, learning to write, track and solve issues.

- **Collaboration**

The economic model of OSS companies shows the interest of intensified collaboration between its companies. The growth of the market can benefit all parts of it.

- Acquisition of tenders can be facilitated through cooperation between smaller OSS companies.
- A larger system integrator usually helps in a group tender acquisition.
- Companies need to collaborate across borders to grow after reaching a certain size; a local legal entity is needed to hire more employees, which makes it difficult regarding local contexts.
- A central collaboration platform to exchange information could be useful: job board, potential prospects, etc.
- (Inter)national conferences with focus on marketing and sales could help share best practices.
- Local contact points in each country would facilitate communication.
- As customers of OSS, large companies need contract responsibility
 - That's why they often source only source larger companies, which mean that smaller OSS companies often can't compete in such tenders.
 - Big contracts split into smaller contracts, the smallest contract specific for OS companies. This may lead to liability issues in the long range.

WG 2: How can governments invest into the European open source industry?

At a time of successive reforms of digital markets and services, Open source companies have been brought to the forefront as a possible alternative to systems that do not allow for the resilience and adaptability needed by public institutions. But what are the ways in which the industry can establish a functional dialogue with the institutions and thus help them to direct their financial efforts towards innovation and competitiveness in the right direction? Under the moderation of Peter H. Ganten, the participants in this group discussed future possibilities depending on the funding opportunities of OSS.

- **How should the future look like?**

To understand how European governments might affect OSS funding, it is first essential to understand what the long-term objectives of the sector should be in terms of development and competition. _

- An increase in the value creation of the European IT (10% GDP)
- Less focus on Unicorns, instead on the overall revenue of all companies in the sector
- Bigger, Pan European OSS Companies
- New and more efficient ways to capture value for companies who created it
- Recognition of Open Source as the most successful model for IT companies
- Recognition of Open Source as better accessible (for end users)
- For end user organizations, contributing to the software they use becomes a standard
- Individuals, states, companies use their capacities to change software according to their needs
- Funding made accessible and understanding for different types and sizes of companies

- **How should money be spent?**

The financing of the OSS industry is not similar in all respects to that of a classical industry, the very functioning of this ecosystem implies different mechanisms of value creation and revenue. As these are not based on exclusive intellectual property rights, it is essential to adapt the forms of funding to allow competition with proprietary and alternative forms of business.

Recommendations:

- The premier principle to fund Open Source is buying Open Source and using Open Source through the public sector, not handing out grants. Therefore, we need changes in public procurement rules: Public sector should only be allowed to buy / use Open Source due to its many benefices.
- Public grants should require open source as principle
- Change audit technics to better measure the impact of OSS where it is funded
- Education and training in OSS could be funded at EU and National scale
- Set up and finance OSPOs (Open Source Programme Offices) or EU institute of open design and technology
- Take inspirations of programmes like GSoC for training over short period of time
- Incentives and penalties through taxes for companies investing in OSS
- Redirect investment into quality projects
- Use of Innovative procurement mechanisms where no open source is yet available

- **Structures**

To receive funding, the Open Source industry requires proper structures to help organize its collaboration and possibilities of growth. This can be done through different structures with all their advantages and disadvantages, with complementary effects.

Recommendations:

- Educational Structure, Build capacity in the Public Sector
- OSPOs
- Open Source Foundation / For Open Commons
- Open Source Startup Program / Venture Capital Funding?

WG 3: What kind of pro-competitive regulation can lower the barriers to compete for open source companies?

Current barriers for open source companies to compete in the European and international market are many. Moderated by Stéphane Fermigier, the third group had to find ways of tackling several issues such as: lock-ins due to anticompetitive behaviour (bundling, etc.) or dubious behaviour (excessive lobbying). They also had to address the issues of lock-ins that are inherent to market forces (ex: users don't want to change providers, some players have more marketing resources than others, pb. with the VC / unicorn model...).

- **Public Tenders**

There are already regulations that are pro-open source.

For example, in Portugal: the public administration who want to do an RFP needs to do first a study to check if there are open source solution. If there are, the public tender should be open to them.

Or in the Netherlands, there was a motion that all software bought by the government should be open source, this was voted unanimously, but the Government didn't follow it because it "would break the continuity".

In France, the "Digital Republic" Law mandates the public administration to "encourage" the use of open source.

But often, that's not enough to ensure a level playing field.

Recommendation:

- Lobby for meta-arguments (sovereignty, freedom, choice...), not just price.
- When money is the main or only factor, promote ways of computing TCO (total cost of ownership) which take into account non-obvious parameters such as:
 - Intrinsic qualities of OSS when doing call for tenders: freedom, quality, security, sustainability...
 - Ensure that some of these characteristic don't change during the lifetime of a project (i.e. what if a company is bought by another company with different values / business model ?).
 - Migrating away from open source should, in general, be much cheaper than from proprietary software, so that should be an advantage for open source.

- Set aside funds (similar to laws in France about water distribution, etc.) when a public administration must use a solution that is not fully open, to take into account exit costs.
- If an open source actor was rejected because it was too cheap (i.e. under budget), as it sometimes happen, they should be allowed to submit again with a more expensive offer.

- **Open standards / API**

As has been argued over the last 20 years, interoperability is a fundamental concept to be put forward in order to enable healthy competition in the IT sector, and in particular to avoid or at least reduce the risks of monopolies forming. The requirement of open standards logically follows from the requirement for interoperability.

But, beyond declarations of principle, and in the light of the imperative to strengthen the competitiveness of the European IT industry and, by the same token, its digital sovereignty, it is important to favour standards that are truly open and tend to allow a high level of competition between the European ecosystem, including open source, and the American giants.

The two key questions are: what kind of standards do we want the public administration to mandate? What definition of open standard should be used?

One challenge, for instance, is: is there (or should there be) a way for a customer to move from one cloud provider to another one with minimal effort ? Only public API conforming to established standards, as well as full exportability and importability of data, can help attain this goal.

In Portugal, you must comply with open standards. The government publishes a list updated every two years. In France, we have the RGI (“Référenciel Général d’Interopérabilité”) but it’s not enforced.

Recommendations:

- Mandate the use of open standards by public administrations, when it’s not done already.
- Use a definition of open standards in line with the EIF (European Interoperability) v1 (*not* the EIF v2 which was gutted by the lobbying of a few US players.).
- More specifically, address the issue of patents (i.e. mandate that a standard can only be considered open if all patents that may encumber an implementation are available under a royalty-free (RF) mode, and not just FRAND).

- Consider “App store” lock-ins. We don't want a "European Google / Amazon / Azure", we want many, interoperable, European cloud companies.

- **GDPR regulations**

Several European data protection authorities (DPAs) are already actively monitoring some of the US cloud companies for compliance with European laws, in particular the GDPR, and in recent months have moved from blog posts to warnings, fines and sanctions, and even outright bans on certain services.

Recommendations:

- Encourage DPAs to continue to put pressure on US players who are not concerned about user data protection.
- If a new Privacy Shield is negotiated between the EU and the US, make sure that it does not gut the GDPR and that it keeps the pressure on US players.
- We need more repressive regulations, not less.

- **Antitrust issues**

Complaints have been raised recently against some of the large cloud American actors. Investigations are also ongoing by several competition watchdogs. It can be argued that the 3 main American cloud providers are a “cartel” under French or European regulation, which may lead to legal action.

Recommendations:

- Be more exhaustive in documenting all the ways we believe that some actors are acting illegally to benefit from their dominant position.
- Work with the competition authorities in order to build strong cases against this.
- Also list the ways these actors are causing market distortion, even if it's in a legal way, in order to build a political case and call for stronger regulations.

- **Supply chain security**

There is currently work being done by large organizations (in the wake of the log4j debacle), e.g., work on Software Bill of materials (SBOM). This work is

done without the involvement of smaller companies, and may lead to a barrier to entry for smaller open source organizations.

Recommendation: We must ensure that smaller companies are involved in the process, either directly or indirectly (e.g., through representative organizations) and supported by public bodies (e.g., security agencies).

- **“Buy European Open Source Act”**

Given the market power of the large American cloud service providers and the economies of scale already at work, we call for a proactive policy to counterbalance these forces by making full use of the lever of public procurement and its knock-on effects on the entire European economy.

While opponents argue that this is not feasible under the current WTO rules, there are several exceptions that can be activated to make this possible (cultural exception, national security, environment...). What missing at this point is a political will from the European Union.

Recommendations: Keep lobbying for a “Buy European Act” (as President Macron briefly did in the Summer of 2017), a “Buy Open Source Act” (as already voted in Italy, and proposed by my French MP Philippe Latombe in a recent parliamentary report), or a combination of the two.

Frederik Blachetta's keynote presentation and following discussion

Frederik Blachetta, Director of Strategy at Dataport, presented participants with different perspectives on the possible future of European open source companies. Considering the conclusions of the working groups and his knowledge of the field, he presented recent policy changes at government level in favour of Open Source, questioning the causes and mechanisms behind these changes.

Recalling recent EU developments in open source software, he highlighted the changing needs of the public and private markets. The presentation also showed the need for collaboration between European open source actors, describing the complex processes that lead to digital policies and actions in this direction.

This provided an opportunity for further debate and discussion among the participants on the next steps for the future of OSS in the EU. Finally, the presentation and discussion reminded everyone that the most important thing is the value of the products developed. By developing the highest quality products and services as it is currently happening, the OSS community will secure its place in the future.

III./ Conclusion and Next Steps

The first conference organized by APELL was a great success. With participants coming from all over Europe, this day of reflection was the occasion for them to exchange and compare their different visions and needs. These debates all had the common goal of cooperation and promoting transparent, democratic and sustainable technological solutions.

The European business representation of the OSS, previously still subject to many challenges of representation at European level, has now found a platform to speak with one voice. This unity will, we are confident, allow a positive evolution towards a more competitive and transparent market. In light of the latest developments in digital policies, APELL hopes to be able to demonstrate the importance of the field of Open Source.

Acknowledgements:

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Next steps:

It is already clear that the success of this first edition is leading us to plan for the next edition. It is essential for APELL and its members to continue this work together and to build on the work already done. To this end, APELL will hold its second conference, next year, this time in Tampere (Finland). We are pleased to have met each one of you and invite all those who could not join us to do so next year.