

***Finding the Right Balance: An Examination of Issues in the Legal and Policy Framework for Promoting e-Science***

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This presentation will review the normative and legal foundations for collaborative public science, and the important role and value of public-domain factual data, especially in the emerging digitally networked “cyberinfrastructure” for *e-Science*. It will then examine the growing economic, legal, and technological pressures worldwide that restrict the creation, availability, and use of data—scientific and otherwise—in the public domain or on an open basis. The analysis will focus in particular on the *sui generis* exclusive property right adopted in Europe through the E.U. Directive on the legal protection of databases. The potential negative synergistic effects of this Directive together with the other pressures will be discussed in the context of scientific research and innovation in the digitally networked environment. The presentation will conclude with an overview of legal and policy options that can be used either to revise the high-protectionist legislative regime or, perhaps more realistically, to carve out a more science-friendly approach in the public research sector based on a system of permissive licenses and institutional agreements.

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\* Note: Portions of this presentation are based on a recent article by J.H. Reichman and Paul F. Uhler, *A Contractually Reconstructed Research Commons for Scientific Data in a Highly Protectionist Intellectual Property Environment*, 66 *Law & Contemporary Problems* 315-462 (Winter/Spring 2003), available at: <http://www.law.duke.edu/journals/66LCPReichman/>. The views expressed here are those of the author and not necessarily those of the National Academies.