Open Source and Proprietary Software: Which is the Role of the Government?

In Latin America a public discussion has emerged about the promotion of open source software by the government. The main reasons behind these proposals are the reduction of the cost of software in the public administration and the strengthening of the local software industry. However, a review of the discussion shows that there is no agreement on how the government can address this issue.

In order to prepare policies regarding open source software, it is recommended to get adequate information on copyright issues, business models and legal implications of the different open source and proprietary software licenses available. Also, it is important to recognize the slight but fundamental difference between the philosophical approach of free software and the pragmatism of the open software approach.

Open source software are the computer applications that are distributed with their source code. This source code is legally available through the use of software licenses that grant users the right to customize and improve the code. It is important to point out that open source software is not in the public domain. Although it uses liberal licenses to grant rights to the users, and most of the time the software license can be obtained for free, it does not mean that the software can be used without restrictions. Its use and distribution should comply with the conditions stipulated in the license.

On the other hand, proprietary software is defined as those computer applications distributed through software licenses that only grant users the right to the use of the application.

In addition to these basic distinctions, there are also differences regarding business models. The business model for proprietary software is based on the selling of software licenses, usually granting the right to use the software through a fee. Meanwhile, the business models related to open source software are mostly based on the provision of services. Profits obtained from the use of open source software are mainly based on technical support, packaging of Linux versions, and by the delivery of mixed solutions combining open source and proprietary software. There are also some cases of companies making profits based on the sale of additional commercial licenses or dual licensing.

Because of the differences between open source and proprietary software, there has been a heated debate over decisions on software in Latin America. Sometimes these discussions do not take into account that almost all companies interact with open source software and that it is possible to provide mixed solutions with proprietary software on open source platforms or vice versa. Considering that the software industry is a strategic sector in the economic development of the countries, it is advisable to avoid a passionate confrontation and to maintain a more pragmatic approach that takes advantage of different types of software.

Regarding the role of governments, based on some international experiences, it can be pointed out three positions the governments could take on software policies implementation: government as consumer, government as regulator and government executing policies to expand the knowledge economy.

1) Government as consumer. It is advisable to promote “open standards” and to obtain the best value for money on the IT investment. Some experiences around the world suggest that these are long-term policies that require a high level of policy support. Promotion of open standards reduces the possibility of “lock-in” in situations with technology providers. These experiences also confirm that it is not advisable to approve laws favoring a particular type of software or to discriminate against products or solutions. (i.e. Germany, Italy Switzerland, Finland, Canada, UK, Norway, USA)

2) Government as regulator. The government plays a key role maintaining a healthy and competitive software market. The best way to do this is through adequate copyright protection, the establishment of mechanisms to control monopolies and sanctions to abusive practices in the market. Although still in process, there have been some experiences of governments trying to reduce monopoly situations in software industry through antitrust cases. (i.e. USA vs. Microsoft and EU vs. Microsoft)

3) The government expanding the knowledge economy as a way to foster economic development. In this regard, policymakers have the challenge to incorporate and take advantages of different kinds of software and license models in the public administration, on the creation of skills for the new economy and for the strengthening of a competitive IT local market.

The open source software phenomenon is related to the growth of the Internet. The Internet is an ideal tool to facilitate communication and the sharing of knowledge. As more people become connected, more software is produced and shared. Thus, greater access to the Internet contributes to the diffusion and creation of knowledge and programming skills at the global level. On the other hand, the low cost of acquisition of open source software could contribute to greater use of software in developing countries. Also, its decentralized innovation and its legal access to intellectual property rights are other advantages. It is fair to say that open source is creating a new dynamic in the industry. Nevertheless, we cannot dismiss the fundamental importance of proprietary software. Because of its profit-oriented model, proprietary software will continue to be a fundamental and critical factor to the growth of a local industry through the selling of software licenses. In summary, both, open source and proprietary software, provide advantages to developing countries. Therefore, it is important for the governments to emphasize the creation of human resources, legal and technical abilities to produce, combine and use both kinds of software and to support connectivity programs.

In conclusion, it is advisable to maintain an inclusive and fair approach regarding software decisions. In the near future, it is possible that the current heated discussion between proponents of both types of software will tend to disappear and the market will adapt to most competition. It is also possible that new forms of production and distribution of software will appear. There will be added huge government efforts in the promotion of neutral standards to facilitate interoperability.