The Out-of-Commerce Works Portal – High-Level Specification

Version 0.15 – 25/03/2020

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References

The document(s) listed below can be accessed following the link provided in the Ref. column.

Ref.	Date	Title
R1	17/04/2019	Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (the Directive)

Terms, acronyms and abbreviations

General terms

Term	Description
EU	European Union
IP	Intellectual property
HLS	High-level specification document
MS	Member State
SRS	Software requirements specification document

Project-specific terms

Term	Description
CHI	Cultural heritage institution registered user [1]
CMO	Collective management organisation registered user [1]
CP	Contact point registered user [1]
PA	Public authority registered user [1]
RH	Rights holder user [1]
PU	Public user [1]
EA	EUIPO administrator [1]
Portal	The public single online portal for out-of-commerce works
Record	Entry on the portal regarding information about either a work or a set of works, including information about embedded works under individual works
Owner of the record	The user of the organisation that initially created the record

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[1] Further details on these acronyms are provided in Section **2.3 Users of the portal**.

1.   Introduction

As provided for in the Directive on Copyright and Related Rights in the Digital Single Market (EU) 2019/790 (the Directive), the European Union Intellectual Property Office (EUIPO) is responsible for establishing and managing a public single online portal for out-of-commerce works (the portal).

The main purpose of the portal will be to provide access to information about out-of-commerce works that could be used under the new mechanisms introduced by the Directive and on those ongoing and future uses. The portal should also make it easier for rights holders to opt out of those mechanisms.

Introductory information about the out-of-commerce mechanisms introduced by the Directive will be made available to users of the portal on the landing page.

A dedicated section on the portal will be available for rights holders, with information and features focusing on their rights and options, including an opt-out mechanism.

The portal will be made available to the public by the deadline by which the Directive must be incorporated into the national legislation of the MS, which is 7 June 2021.

1.1   Purpose

This document describes the high-level specifications for the portal. It intends to provide the necessary information to enable the stakeholders to understand the main functionalities that the portal will provide. The focus of this document is on 'what' the new portal will do and not on 'how' it should do it.

The functionalities of the portal described in this document may be implemented in several phases. It is envisaged that the initial go-live of the portal will include the 'must have' features which are required in order to comply with the legal requirements of the Directive. After the initial go-live, additional features could be incorporated into the portal as part of subsequent IT releases.

This document does not set out to provide all the necessary information for its recipients to design, develop and test a solution. Further information will be provided in sufficient detail in the software requirements specification (SRS) document.

1.2   Scope

The following components will be produced as part of the portal and are therefore defined in this document.

1.2.1 In scope

The following portal functionalities are considered to be in scope for different types of users:

- ✓ user registration
- ✓ user management
- ✓ upload of records
- ✓ modification of records
- ✓ deletion of records [2]
- ✓ search of records
- ✓ information for rights holders on their rights and options, including an opt-out feature:
    - ▪ information on the general opt-out mechanism in MS, including a feature facilitating general opt-out requests;
    - ▪ information on the rights holder who requested a general opt-out through the portal;
    - ▪ specific opt-out request feature (i.e. with regard to specific works/sets of works or specific uses);
- ✓ user notifications (including a system alert) general information feature (e.g. information about the Directive, information on representative CMOs received from MS, recently added records, popular search)
- ✓ provision of statistics.

1.2.2 Out of scope

The following functionality is out of scope:

- ✗ the mechanism defining what will be considered as out-of-commerce works.

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[2] The deletion will be allowed in certain record statuses only and it will be used as an exceptional operation for records created by mistake.

2. Overall Description

2.1 Portal overview

The portal will gather information about different types of works and other subject matter, for example, literary works, audio-visual works, photographs, software, phonograms and unique works of art, including never-in-commerce works, such as posters, leaflets, trench journals or amateur audio-visual works, but also unpublished works or other subject matter.

The portal will allow to record information about individual works, sets of works, as well as information about embedded works under individual works.

The users of the portal will include cultural heritage institutions (CHI), collective management organisations (CMO), relevant public authorities (PA), national contact point users (CP), as well as rights holders (RH) and the general public users (PU).

The registered users of the portal will be the CHI, the CMO, the PA and the CP. The RH and PU will not require registration in the portal.

The main functionalities of the portal will be:

- creating/modifying/deleting records
- facilitating basic and advanced searches
- providing an opt-out feature
- providing notifications and system alerts
- provision of statistics
- forwarding user registrations
- offering general information regarding the out-of-commerce works mechanism
- offering information for rights holders on their rights and options, including the opt-out mechanism, as well as the possibility to request correction of records.

The portal will be available in all EU official languages. Forms used for certain functionalities (e.g. the form to request an opt-out) will also be available in all EU official languages.

Figure 1. Portal overview, below, presents the different types of user together with the main functionalities that the portal will provide.

More detailed descriptions of the main functionalities available for each type of user is provided under Section **2.3 Users of the portal**.

Figure 1. Portal overview

2.2 The portal structure

The functionalities available on the portal will depend on the type of user.

2.2.1 Rights holders

A dedicated section on the portal will be available for rights holders, with information and features focusing on their rights and options. The term 'rights holder' refers to any potential rights holder of out-of-commerce works, including an author or other creator.

The rights holders will access the portal without needing to register. After accessing the portal's landing page, they will receive a link to a dedicated section with information and features relevant to their rights.

In particular, information will be provided to rights holders on how to initiate a general and specific

opt-out and which institutions will be responsible for dealing with opt-out requests in each Member State.

Rights holders will be able to initiate a general opt-out request using an e-form which will generate a notification to the registered user(s), including notifying responsible organisations in multiple MS at the same time, provided their contact details are made available in the portal. The portal will provide information on the rights holders who have requested for a general opt-out through the e-form.

Rights holders will be able to perform a search of records in the portal (using basic and advanced searches). After the search results are displayed, the portal will provide the option to access the details about the work/set of works, together with information regarding the uses, as well as the possibility to request a specific opt-out. There will be a possibility to request a specific opt-out for a work or a set of works, including partial opt-out.

On the basis of information displayed in the portal, rights holders will be able to notify the organisation owner of the record in case a correction of record is necessary.

In addition, there will be a possibility for rights holders to enrol in alerts linked to specific search criteria (e.g. to be alerted about the introduction of works from a certain MS in the portal). More information on alerts is provided under Section **3.9 User alerts**.

2.2.2   Public users

Public users can access the portal without needing to register. On the portal's landing page, public users will have the possibility to search records and the details of the records.

The landing page will also include information on the out-of-commerce mechanism, on recently added records, popular searches, together with a link to the rights holder section and a section allowing the user to enrol in alerts linked to specific search criteria. More information on alerts is provided under Section **3.9 User alerts**.

Figure 2. The portal's structure for rights holders and public users below presents the portal's structure for public users.
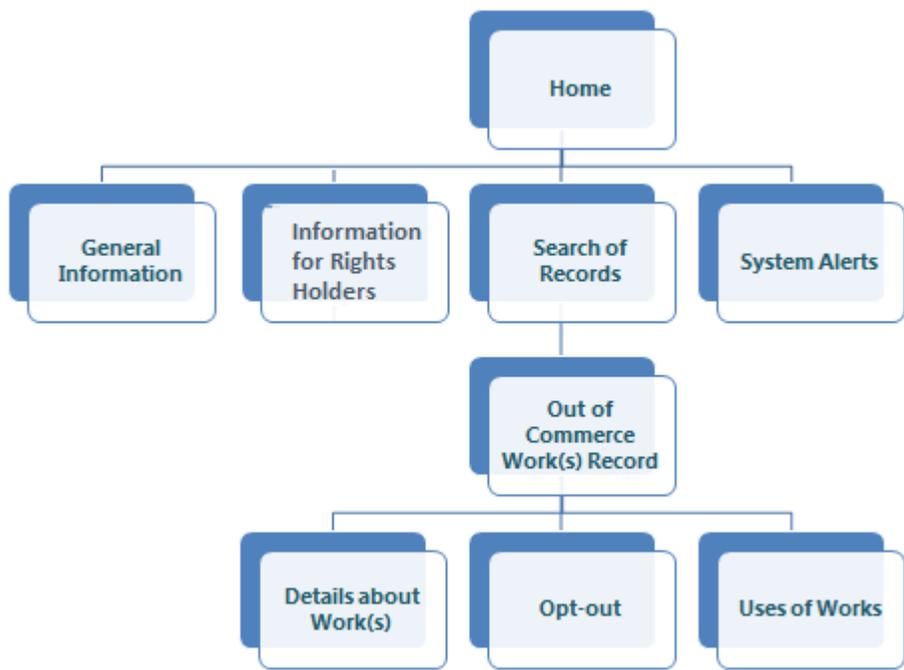
Figure 2. The portal's structure for rights holders and public users

2.2.3   Registered users

The registered users of the portal will be the CHI, the CMO, the PA and the CP.

The role of the CP is required to perform a user verification function, that is, to verify that a CHI or a CMO, which requests registration in the portal, is in fact a CHI or a CMO. The user verification function would have to be performed for one main (master) user per organisation once the organisation files a user registration request in the portal. It is to be noted that the CP will not assume liability for the registered users in case of breach of law, that is, the users providing information will be responsible for the correctness of the information in the portal. The role of the CP is optional, however, it is strongly recommended to designate a CP in your MS. For those MS where the CP cannot be designated, the user registration requests will be sent to the EA. More information on the user registration process is provided under Section **3.1 User registration**.

The role of the CHI, the CMO and the PA user is required in order to create and manage records in the portal. It is to be noted that the role of the PA is optional, the user account would be required only if a PA user is entrusted, according to national legislation, with certain tasks in relation to the portal (e.g. providing information about out-of-commerce works, providing information about the options available to rights holders, such as information on how a general opt-out is possible in their MS).

In order to create or modify records, users will have to register their organisation on the portal.

As shown in **Figure** 3 below, after performing user registration and logging onto the portal, the registered user will have the possibility to access and update his or her already created records or to create new records (one by one or using the bulk upload option).

The organisation which initially created the record will be considered the owner of the record. There will be contact information for each record owner and they can be contacted by the rights holder in case a correction of record is necessary.

Information concerning the uses of works may be added by other registered users (not the owner of the record), which will also be indicated in the record.

All users will have access to the record logs. A section for statistical information will be displayed according to the user profile. Registered users will have the option to manage their organisation's additional accounts.

A more detailed description of the main functionalities of the portal is provided under Section **3 Functional Specifications.**
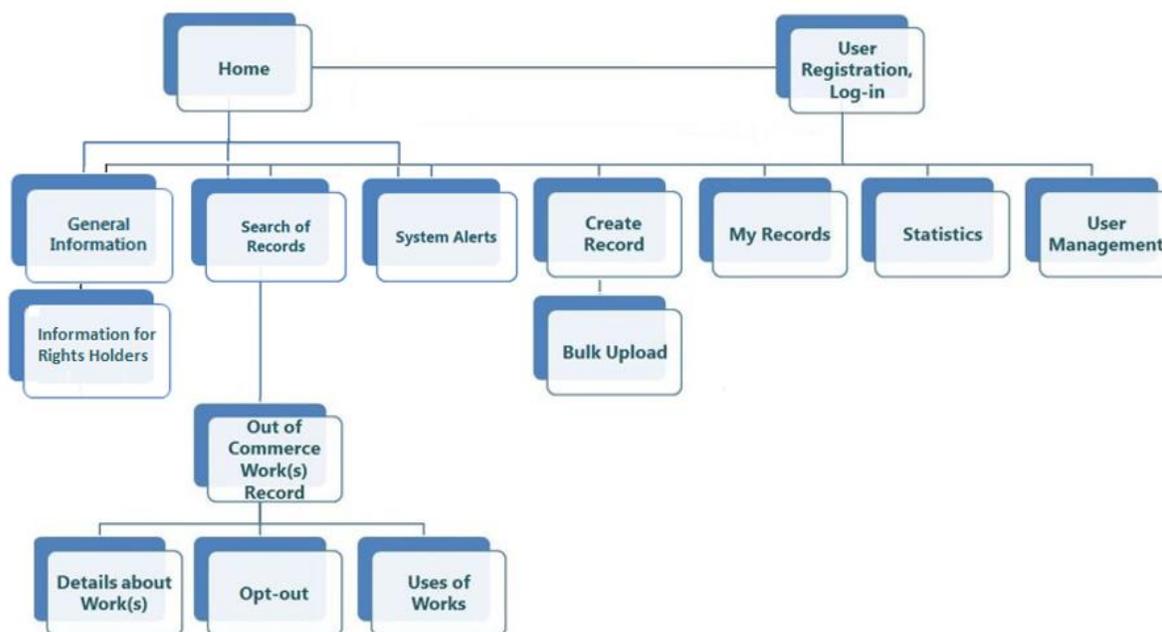

Figure 3. The portal's structure for registered users

2.3 Users of the portal

This section presents the different types of user of the portal and their characteristics.

User role	Category	Description
Cultural Heritage Institution (CHI)	*Definition*	A publicly accessible library or museum, an archive or a film or audio heritage institution. This includes inter alia, national libraries and national archives and, as far as their archives and publicly accessible libraries are concerned, educational establishments, research organisations and public sector broadcasting organisations.
Collective Management Organisation (CMO)	*Definition*	Any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one rights holder for the collective benefit of those rights holders, as its sole or main purpose and which fulfils one or both of the following criteria: (i) it is owned or controlled by its members; (ii) it is organised on a not-for-profit basis.
Public Authority (PA)	*Definition*	A public authority institution in an MS which may be entrusted according to national legislation with certain tasks in relation to the portal.
Cultural Heritage Institution (CHI), Collective Management Organisation (CMO), Public Authority (PA)	*Functionalities* *Business rules*	These users will be able to perform the following actions once access is given by the CP: • create a record on the portal • modify/delete a record on the portal • search records (basic and advanced search) • access the portal statistics and logs • update record with the result of the opt-out request • enrol in system alerts • manage account (create, modify, activate/deactivate additional users) for their organisation The portal will allow multiple users for each MS. Each user will be linked to the MS where they are established.
Contact Point (CP)	*Definition* *Functionalities*	A relevant point of contact from each MS designated to ensure that only legitimate users have access to the portal. These users will be able to perform the following actions: • forward user registrations to the portal (CHI, CMO, PA) • search records (basic and advanced search) • enrol in system alerts • access the portal's statistics and logs The portal will allow multiple CP users for each MS.

	Business rules	Each CP user will be linked to the MS where the organisation is established.
Rights Holder User (RH)	*Definition*	Any potential rights holder wishing to access the portal and exercise his/her rights via the portal.
	Functionalities	These users will be able to perform the following actions: • search records (basic and advanced search) • request a specific opt-out for a work/set of works, including a partial opt-out • initiate a general opt-out request (using an e-form which will generate a notification to the registered user(s)) • notify the owner of the record in case correction of a record is necessary • enrol in system alerts
	Business rules	These users will access the portal without authentication.
Public User (PU)	*Definition*	Any internet user wishing to access the portal.
	Functionalities	These users will be able to perform the following actions: • search records (basic and advanced search) • enroll in system alerts
	Business rules	These users will access the portal without authentication.
EUIPO Administrator (EA)	*Definition*	An EUIPO user who will access the portal for administration purposes.
	Functionalities	These users will be able to perform the following actions: • search records (basic and advanced search) • enrol in system alerts • forward user registrations to the portal (CHI, CMO, PA) from those MS where the CP is not appointed; • manage portal in exceptional situations • access the portal statistics and logs

3. Functional Specifications

This section describes the functionalities that the portal must provide.

Further details, such as information regarding the metadata that needs to be collected, will be specified in the SRS document.

3.1 User registration

REQ-UR-01 The portal will allow users to perform registration of his or her organisation on the portal.

The user will fill in a registration form where he or she needs to specify the type of user and to fill in contact details of his or her organisation, including an email address. The user registration request will go to the CP of his or her MS. In case the CP is not appointed for some MS, the user registration requests from these MS will be sent to the EA. The users from MS where the CP is not appointed may be requested to provide additional information about their organisation (such as a copy of legal statute) and to accept the liability disclaimer.

This feature will be used to register CHI, CMO and PA users.

The CP users will be created by the EA.

REQ-UR-02 The portal will allow the CP that has been assigned for a specific MS to forward to the portal the user registration requests from his or her MS. In case the CP is not appointed for some MS, the forwarding function of user registration requests coming from those MS will be performed by the EA.

REQ-UR-03 Once an organisation is registered as a user, the portal will allow this user to create, modify and activate/deactivate sub-accounts within their organisation.

3.2 Creation of records on the portal

REQ-CR-01 The portal will allow authorised users to create and submit new records using the portal interface. The organisation which initially created the record will be considered the owner of the record; their contact details will be displayed in the record.

REQ-CR-02 The portal will provide the possibility to add information about individual works, sets of works, as well as individual works within a set. Individual works can be assigned or added to sets.

REQ-CR-03 The portal will provide the possibility to add embedded works under individual works. Information about embedded works may be entered at different times (not obligatory at the moment of record creation) by users from the organisation which is the owner of the record.

REQ-CR-04 The portal will provide a list of categories of works, including an 'other' category, to include various types of content.

REQ-CR-05 The portal will provide the following types of information for one record in different sections (some fields will be compulsory, some optional):

i)   information about the work or set of works (including information about embedded works under individual works) together with details related to the record, such as the entry date (which indicates when the record was submitted to the portal), or the explanatory notice informing that the use of a work can take place six months after information about a work has been made accessible on the portal.

Information about the work means all information that helps to identify the work. This includes the rights holder information (which may be subject to change), as well as static information, such as title, author, date of publication or production.

The record may include other information on a work, such as a link to a web page where the work is available to the public. It will include contact details of the organisation that entered the information, so that any user, including rights holders can directly contact that organisation for purposes other than opting out (including, for example, if they disagree with the out-of-commerce nature of the work, or in case a correction is necessary).

The portal could also provide the possibility to upload files which could provide additional information, thus, facilitating the identification of works.

ii)   information about specific opt-outs together with the option to request a specific opt-out.

iii)   information about uses of the work/set of works, either under licence or under the exception (parties to the licence, the territories covered and the uses authorised).

Information about licensing and uses will not be obligatory at the moment of record creation and could be inserted (potentially by different entities) once it is available and if relevant. Information about more than one licence/use may be entered at different times by different users for the same record. The date of entry will be indicated for each licence/use.

The requirements for mandatory metadata when creating records in the portal will be minimal. For the categories of works where metadata is not a sufficient identifier (such as visual works), available technologies will be analysed, in view of their potential inclusion in the portal. The portal will rely on the main existing standards and identifiers available in different sectors.

The portal will match newly created records with the existing records in order to find out whether the same work already exists in the portal, that is, the portal shall display an informative warning when the user enters a record with the same title and the same category and the same rights holder.

3.3   Bulk upload of records

REQ-BU-01 The portal will provide, in a standardised way, the possibility to upload information about large sets of data, including sets of works, as well as information about individual works.

An analysis will be performed of the most commonly used standards in different sectors in order to facilitate the transfer of records into the portal and potential direct integrations (APIs) between databases and the portal may be considered at a later stage. However, this approach may require development effort from the organisations using the portal and wishing to use these APIs.

3.4   Editing records on the portal

REQ-ER-01 The portal will allow any authorised users from the organisation which is the owner of the record to modify the existing records of their organisation through the portal interface.

REQ-ER-02 The portal will allow authorised users (including others than the owner of the record) to add or modify information about the uses.

3.5   Deleting records on the portal

REQ-DR-01 The portal will allow authorised users from the organisation which is the owner of the record to delete the records created by that organisation from the portal interface. The deletion option will be available only for specific statuses of the record and will be used in exceptional situations (e.g. when the record was created by mistake).

3.6   Opt-out feature

REQ-OO-01 The portal will allow a potential rights holder to request a specific opt-out for a work/set of works, including for one or several licences within that record. The specific opt-out request may be initiated on the portal but it will be processed outside the portal directly with the relevant MS organisation.

The potential rights holder will be able to request a partial opt-out for a specific work (e.g. for specific uses or users), which will be indicated on the portal.

In case of a set of works, the potential rights holder will have the possibility to request the opt-out either for the entire set or for specific work(s) within that set. In case an individual work within a set has no metadata filled in, the rights holder will have a possibility to opt out for the entire set and to indicate in the opt-out request that his or her request refers to a specific work within a set. The user will also have the possibility to contact the relevant organisation (the owner of the record) and ask for the missing details to be included.

In case of embedded works under an individual work, the potential rights holder will have the possibility to request an opt-out from record by specifying that the opt-out request applies to embedded work(s) under the individual work.

The portal will provide a form for the opt-out requester to provide data about him or herself such as the contact details and a free text section to specify a partial opt-out request.

The notification about the specific opt-out request will be sent to the owner of the record, as well as to other organisations associated with the record (e.g. CMO), provided their contact details are available on the portal.

REQ-OO-02 The portal will provide a feature for authorised users to update the record with the outcome of the opt-out request according to the different possible scenarios (accepted, rejected).

A general opt-out request will be dealt outside of the portal directly with the MS organisation. However, the portal may facilitate a general opt-out request through the interface by providing an e-form which will generate an automated notification to the registered users indicated by MS. It will be possible to notify responsible organisations in multiple MS at the same time, provided their contact details are made available on the portal.

Information regarding the rights holders who have requested for a general opt-out through the e-form will be made available on the portal. For additional information, please see Section **3.10 General information**.

The general opt-out feature will be possible to use at any time, even before information about the out-of-commerce works has been entered on the portal.

3.7   Notifications

REQ-AN-01 The portal will automatically notify users via email:

i.   about own records (e.g. when a record is updated by another entity with information about a licence)
ii.   when a request is submitted to become a registered user on the portal
iii.   when a request is submitted for an opt-out
iv.   when a record is pending to be updated with the outcome of an opt-out request

v.   after the record is updated with the outcome of an opt-out request.

The automatic notification will be sent to the owner of the affected record (e.g. when a request for an opt-out is submitted to the portal), as well as to other affected users, such as CP (when a request is submitted to become a registered user on the portal) and RH (when a request is submitted for an opt-out).

3.8   Record search

REQ-RS-01 The portal will provide a basic and advanced search option for the out-of-commerce works information uploaded on the portal. The portal will allow users to select several criteria when performing a search.

3.9   User alerts

REQ-UA-01 Any user, including a RH and a PU, will be able to set up alerts linked to specific search criteria (e.g. to be alerted about the introduction of new works from a certain rights holder).

The portal will provide a limited list of predefined criteria for alerts. The user will be able to select from this list those alerts he or she is interested in and to activate them (e.g. by ticking a box).

After successfully setting the alert, the portal will notify the user by email which will contain a link to the portal for changing the search criteria (if required).

The portal will send an automated alert to the email address provided by the user (for a RH and a PU) or to the email address provided in the user registration form (for a registered user) if the specified criteria are met.

The portal will allow the users to unsubscribe from the alerts through the email.

3.10   General information

REQ-GI-01 The portal will provide information about the out-of-commerce mechanism and the underlying Directive. MS level information will be available about representative CMOs (such as their contact details).

Information disclaimers will be provided on the portal regarding the liability of the EUIPO, that is, that the EUIPO is not responsible for the information provided on the portal. It will be also specified that the CP will not assume liability for the registered users in case of breach of law, that is, the users providing information will be responsible for the correctness of information on the portal.

3.11   Information for rights holders

REQ-RI-01 The portal will display recently added records, as well as popular search criteria and results. The portal will provide information on how to notify the owner of the record in case the correction of a record is necessary.

REQ-RI-02 The portal will provide information on how to initiate a general opt-out in each MS.

REQ-RI-03 The portal will provide information on how to initiate a specific opt-out through the portal.

REQ-RI-04 The portal may facilitate a general opt-out request through the interface by providing an e-form which will generate an automated notification to the registered users indicated by MS, including potentially notifying responsible organisations in multiple MS at the same time. The general opt-out request will be initiated on the portal but it will be processed outside the portal directly by the relevant MS organisation.

REQ-RI-05 The portal will make available information regarding the rights holders who have requested for a general opt-out through the e-form. An informative warning will be displayed when a new record is created for the rights holders who have requested for a general opt-out.

3.12   Statistics

REQ-SI-01 The portal will provide statistical information through the portal interface.

The statistical information will be made available to the registered users of the portal and tailored according to the user profile (e.g. showing the number of records per user of the MS, the number of records per organisation of the user, the number of opt-out requests per MS).