



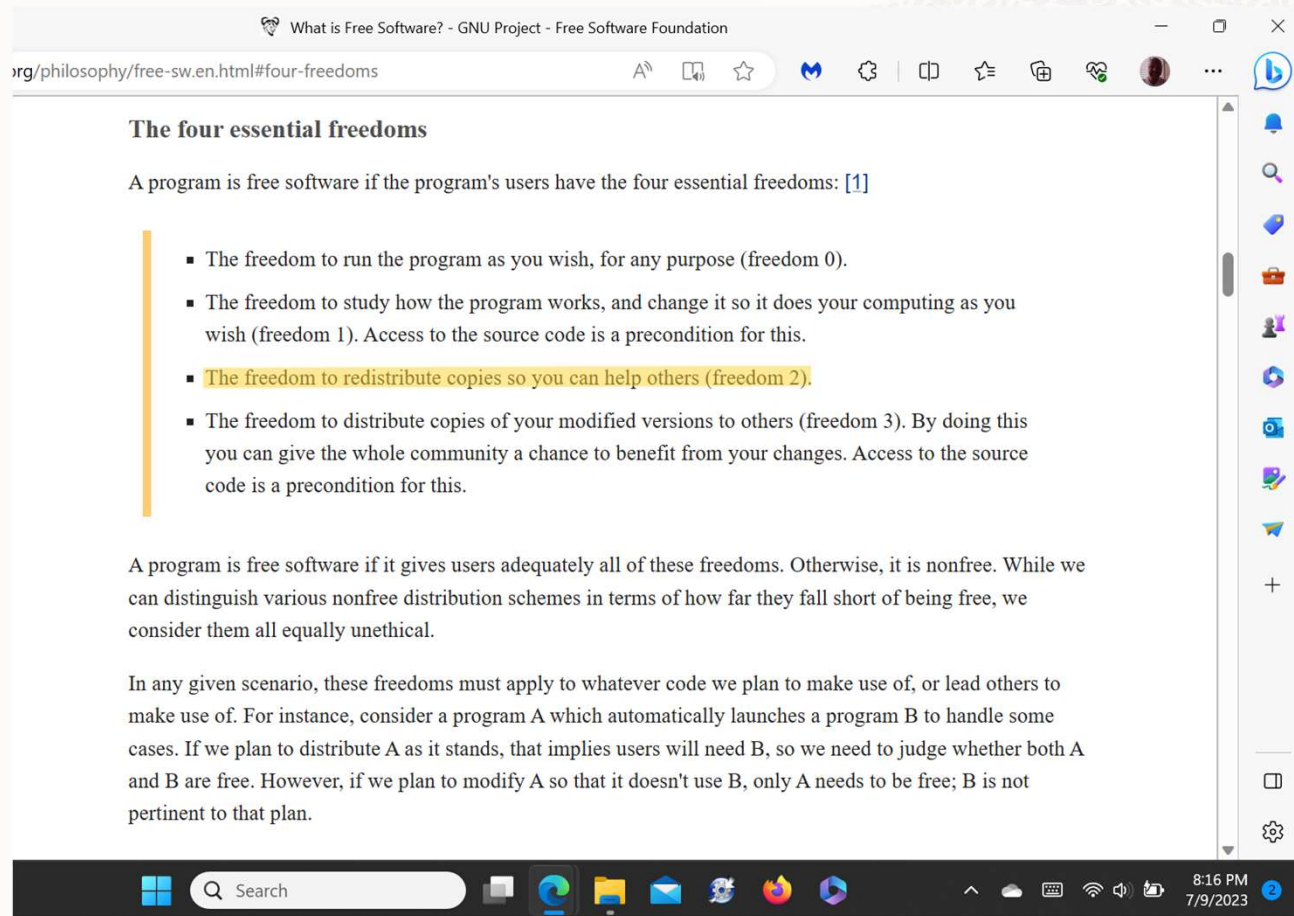
Red Hat Enterprise Linux: Is This Open Source?

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Standards of Industry Number One: The FSF's Four Freedoms

A screenshot of a web browser displaying the Free Software Foundation's (FSF) page on the four essential freedoms of free software. The browser's address bar shows the URL 'org/philosophy/free-sw.en.html#four-freedoms'. The page title is 'What is Free Software? - GNU Project - Free Software Foundation'. The main heading is 'The four essential freedoms'. Below it, a paragraph states: 'A program is free software if the program's users have the four essential freedoms: [1]'. A list of four freedoms follows, with the third freedom, 'The freedom to redistribute copies so you can help others (freedom 2)', highlighted in yellow. The list items are: 0) The freedom to run the program as you wish, for any purpose (freedom 0). 1) The freedom to study how the program works, and change it so it does your computing as you wish (freedom 1). Access to the source code is a precondition for this. 2) The freedom to redistribute copies so you can help others (freedom 2). 3) The freedom to distribute copies of your modified versions to others (freedom 3). By doing this you can give the whole community a chance to benefit from your changes. Access to the source code is a precondition for this. Below the list, a paragraph explains that a program is free software if it gives users adequately all of these freedoms, otherwise it is nonfree. Another paragraph discusses how these freedoms apply in various scenarios, such as when a program A launches program B. The Windows taskbar is visible at the bottom, showing the time as 8:16 PM on 7/9/2023.

What is Free Software? - GNU Project - Free Software Foundation

org/philosophy/free-sw.en.html#four-freedoms

The four essential freedoms

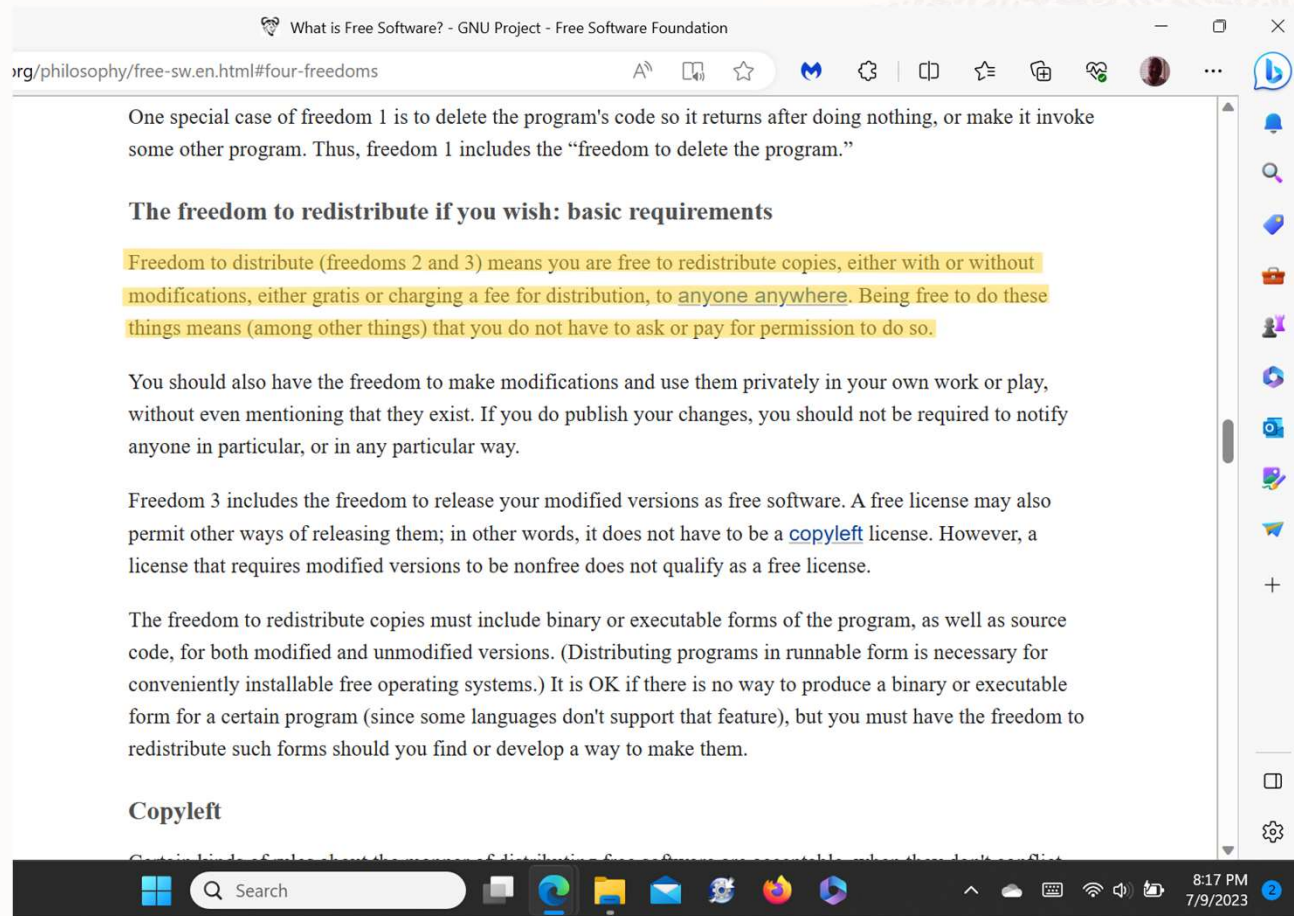
A program is free software if the program's users have the four essential freedoms: [1]

- The freedom to run the program as you wish, for any purpose (freedom 0).
- The freedom to study how the program works, and change it so it does your computing as you wish (freedom 1). Access to the source code is a precondition for this.
- The freedom to redistribute copies so you can help others (freedom 2).
- The freedom to distribute copies of your modified versions to others (freedom 3). By doing this you can give the whole community a chance to benefit from your changes. Access to the source code is a precondition for this.

A program is free software if it gives users adequately all of these freedoms. Otherwise, it is nonfree. While we can distinguish various nonfree distribution schemes in terms of how far they fall short of being free, we consider them all equally unethical.

In any given scenario, these freedoms must apply to whatever code we plan to make use of, or lead others to make use of. For instance, consider a program A which automatically launches a program B to handle some cases. If we plan to distribute A as it stands, that implies users will need B, so we need to judge whether both A and B are free. However, if we plan to modify A so that it doesn't use B, only A needs to be free; B is not pertinent to that plan.

Standards of Industry Number One: The FSF's Four Freedoms



The screenshot shows a web browser window with the address bar displaying "org/philosophy/free-sw.en.html#four-freedoms". The page title is "What is Free Software? - GNU Project - Free Software Foundation". The main content discusses the Four Freedoms of Free Software. A paragraph states: "One special case of freedom 1 is to delete the program's code so it returns after doing nothing, or make it invoke some other program. Thus, freedom 1 includes the 'freedom to delete the program.'" Below this, a section titled "The freedom to redistribute if you wish: basic requirements" contains a highlighted paragraph: "Freedom to distribute (freedoms 2 and 3) means you are free to redistribute copies, either with or without modifications, either gratis or charging a fee for distribution, to anyone anywhere. Being free to do these things means (among other things) that you do not have to ask or pay for permission to do so." Further text explains that users should have the freedom to make modifications and use them privately, and that Freedom 3 includes the freedom to release modified versions as free software. A section titled "Copyleft" is partially visible at the bottom.

What is Free Software? - GNU Project - Free Software Foundation

org/philosophy/free-sw.en.html#four-freedoms

One special case of freedom 1 is to delete the program's code so it returns after doing nothing, or make it invoke some other program. Thus, freedom 1 includes the "freedom to delete the program."

The freedom to redistribute if you wish: basic requirements

Freedom to distribute (freedoms 2 and 3) means you are free to redistribute copies, either with or without modifications, either gratis or charging a fee for distribution, to anyone anywhere. Being free to do these things means (among other things) that you do not have to ask or pay for permission to do so.

You should also have the freedom to make modifications and use them privately in your own work or play, without even mentioning that they exist. If you do publish your changes, you should not be required to notify anyone in particular, or in any particular way.

Freedom 3 includes the freedom to release your modified versions as free software. A free license may also permit other ways of releasing them; in other words, it does not have to be a [copyleft](#) license. However, a license that requires modified versions to be nonfree does not qualify as a free license.

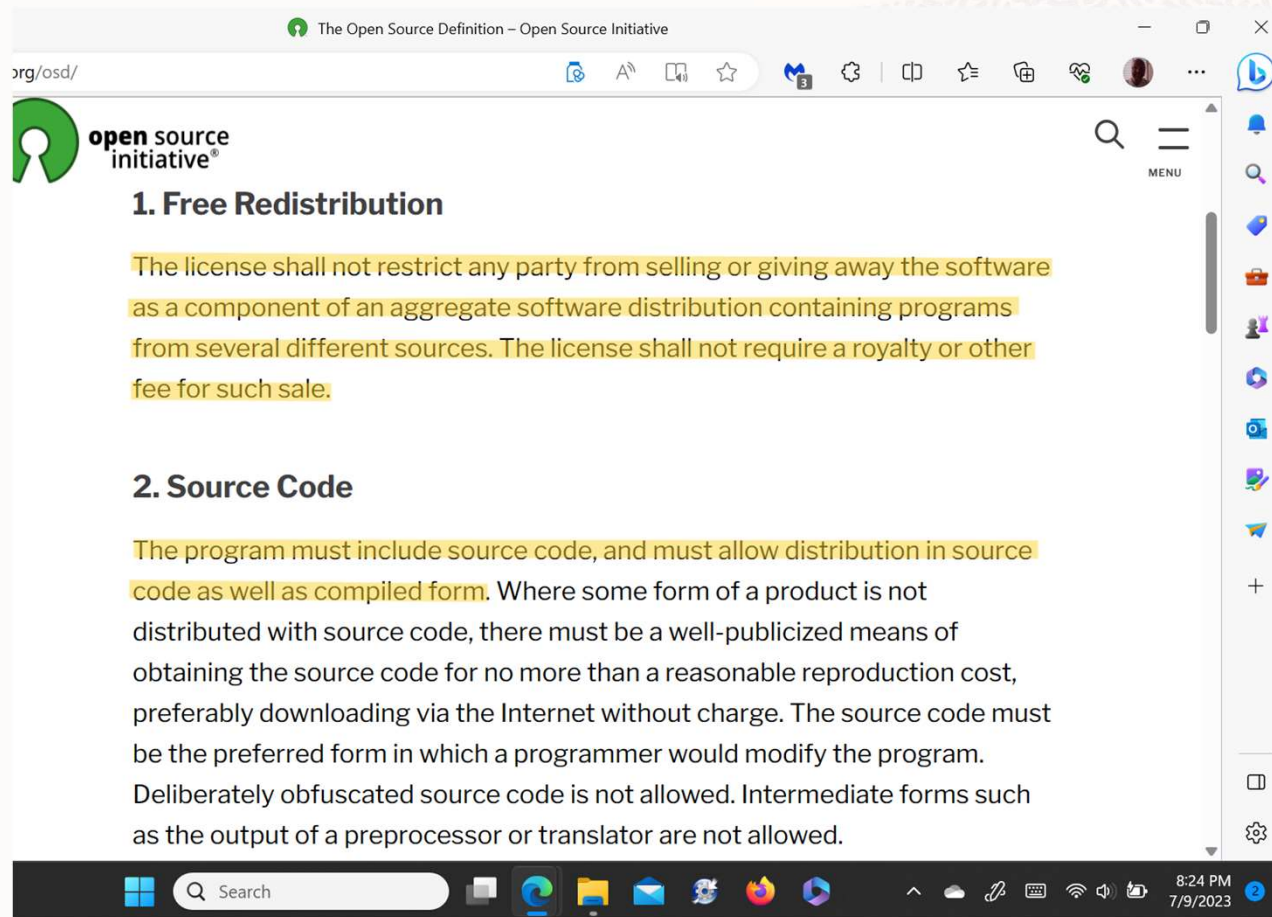
The freedom to redistribute copies must include binary or executable forms of the program, as well as source code, for both modified and unmodified versions. (Distributing programs in runnable form is necessary for conveniently installable free operating systems.) It is OK if there is no way to produce a binary or executable form for a certain program (since some languages don't support that feature), but you must have the freedom to redistribute such forms should you find or develop a way to make them.

Copyleft

Get this kind of freedom about the manner of distribution. Some programs are not licensed under the GNU GPL.



Standards of Industry Number Two: The OSI's Open Source Definition



The screenshot shows a web browser window with the address bar displaying "org/osd/". The page title is "The Open Source Definition – Open Source Initiative". The Open Source Initiative logo is visible in the top left corner. The main content area lists two criteria for open source software:

- 1. Free Redistribution**

The license shall not restrict any party from selling or giving away the software as a component of an aggregate software distribution containing programs from several different sources. The license shall not require a royalty or other fee for such sale.
- 2. Source Code**

The program must include source code, and must allow distribution in source code as well as compiled form. Where some form of a product is not distributed with source code, there must be a well-publicized means of obtaining the source code for no more than a reasonable reproduction cost, preferably downloading via the Internet without charge. The source code must be the preferred form in which a programmer would modify the program. Deliberately obfuscated source code is not allowed. Intermediate forms such as the output of a preprocessor or translator are not allowed.

The browser's taskbar at the bottom shows the Windows Start button, a search bar, and several application icons. The system clock in the bottom right corner indicates the time is 8:24 PM on 7/9/2023.



Red Hat's Own Words: What Is Open Source?

The screenshot shows a web browser displaying the Red Hat website. The address bar shows the URL `https://www.redhat.com/en/topics/open-source/what-is-open-source`. The page features a dark navigation bar with the Red Hat logo, a menu icon, and links for Support, Console, Developers, Start a trial, and Connect & explore. Below the navigation bar, the breadcrumb trail reads: Topics > Open source > What is open source?. The main heading is "What is open source?". Below the heading, it says "Published October 24, 2019 • 7-minute read" and a "Copy URL" link. The "Overview" section begins with the text: "Open source is a term that originally referred to open source software (OSS). Open source software is code that is designed to be publicly accessible—anyone can see, modify, and distribute the code as they see fit." A red speech bubble icon is visible on the right side of the text.

https://www.redhat.com/en/topics/open-source/what-is-open-source

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Topics > Open source > What is open source?

What is open source?

Published October 24, 2019 • 7-minute read [Copy URL](#)

Overview

Open source is a term that originally referred to open source software (OSS). Open source software is code that is designed to be publicly accessible—anyone can see, modify, and distribute the code as they see fit.

Red Hat's Terms: Distribution Is A Material Breach

1. Background and Definitions.

- 1.1 Definitions.** “**Instance**” means a virtual or physical system on which you or the Service Provider installs or executes all or a portion of the Software. “**Portal**” means the Service Provider’s online portal through which you purchase and/or receive access to Software and Services. “**Software**” means the Red Hat branded software, including all modifications, additions and further enhancements, in each case, which are provided by Red Hat and obtained directly or via a Service Provider or another third party. “**Services**” means access to Software maintenance in the form of Software fixes, updates, upgrades, modifications, images and security advisories, when and if available, provided by Red Hat and delivered to you by the Service Provider. “**Service Provider**” means the Red Hat authorized third party from whose Portal you receive access to Software and Services. “**Subscription Services**” refer to the Red Hat Software and Services provided to you for a specific term and made available by a Service Provider.

- 2.2 Purchase Requirements.** During the term of this Agreement as set forth in Section 6, you are required to purchase Services for each Instance from either (i) Service Provider or (ii) Red Hat or a Red Hat authorized business partner. If you are using any of the Services to support or maintain Instances of Red Hat or non-Red Hat software (other than Instances obtained under a paid Subscription) either within or outside the Portal, then you are required to notify Red Hat of such use and pay Red Hat the standard published software subscription fees for such use (e.g. <https://www.redhat.com/wapps/store/catalog.html>) under the terms of the Red Hat Enterprise Agreement, a copy of which is set forth at www.redhat.com/licenses. Distributing the Subscription Services (or any portion) to a third party outside the Portal or using the Subscription Services to support a third party without paying the respective fees is a material breach of this Agreement even though the open source license applicable to individual software packages may give you the right to distribute those packages (and this Agreement is not intended to interfere with your rights under those individual licenses). For clarification purposes, this Agreement **does not** apply to Software subscriptions purchased from Red Hat directly for use outside the Portal or in conjunction with the Red Hat Cloud Access program (as set forth at <https://www.redhat.com/solutions/cloud/access/enroll.html>). The Red Hat Cloud Access program is the method through which you may migrate Software subscriptions purchased from Red Hat to use on the Service Provider’s Portal.

Red Hat's Terms: Distribution Is A Material Breach

Index_1_Global_English_20230303.pdf

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(f) **Scope of Use of Subscription Services.** The Agreement (including pricing) is premised on the understanding that you will use Subscription Services only for your internal use (which may include Affiliates other than any entities in Russia, Belarus or jurisdictions prohibited under United States law). Your internal use may include running a web site and/or offering your own software as a service, provided that such use (a) does not include a distribution, sale or resale of any of the Subscription Services and (b) provides as the primary component of the web site or service a material value added application other than the Subscription Services. However, providing the Subscription Services to, or using them for the benefit of, a third party (for example, using Subscription Services to provide hosting services, managed services, Internet service provider (ISP) services, or third party access to or use of the Subscription Services) is a material breach of the Agreement. Subscription Services may be used by third parties acting on your behalf, such as contractors or outsourcing vendors, provided you (i) are fully responsible for the activities and omissions of the third parties acting on your behalf and (ii) in the case of a migration to a third party cloud or hosting provider, are qualified for and comply with the terms of the Red Hat Cloud Access program as set forth in Section 3 below.

(g) **Unauthorized Use of Subscription Services.** Any unauthorized use of the Subscription Services is a material breach of the Agreement. Unauthorized use of the Subscription Services includes: (a) only purchasing or renewing Subscription Services based on some of the total number of Units, (b) splitting or applying one Software Subscription to two or more Units, (c) providing Subscription Services (in whole or in part) to third parties, (d) using Subscription Services in connection with any redistribution of Software or (e) using Subscription Services to support or maintain any non-Red Hat Software products without purchasing Subscription Services for each such instance (collectively, “Unauthorized Subscription Services Uses”).

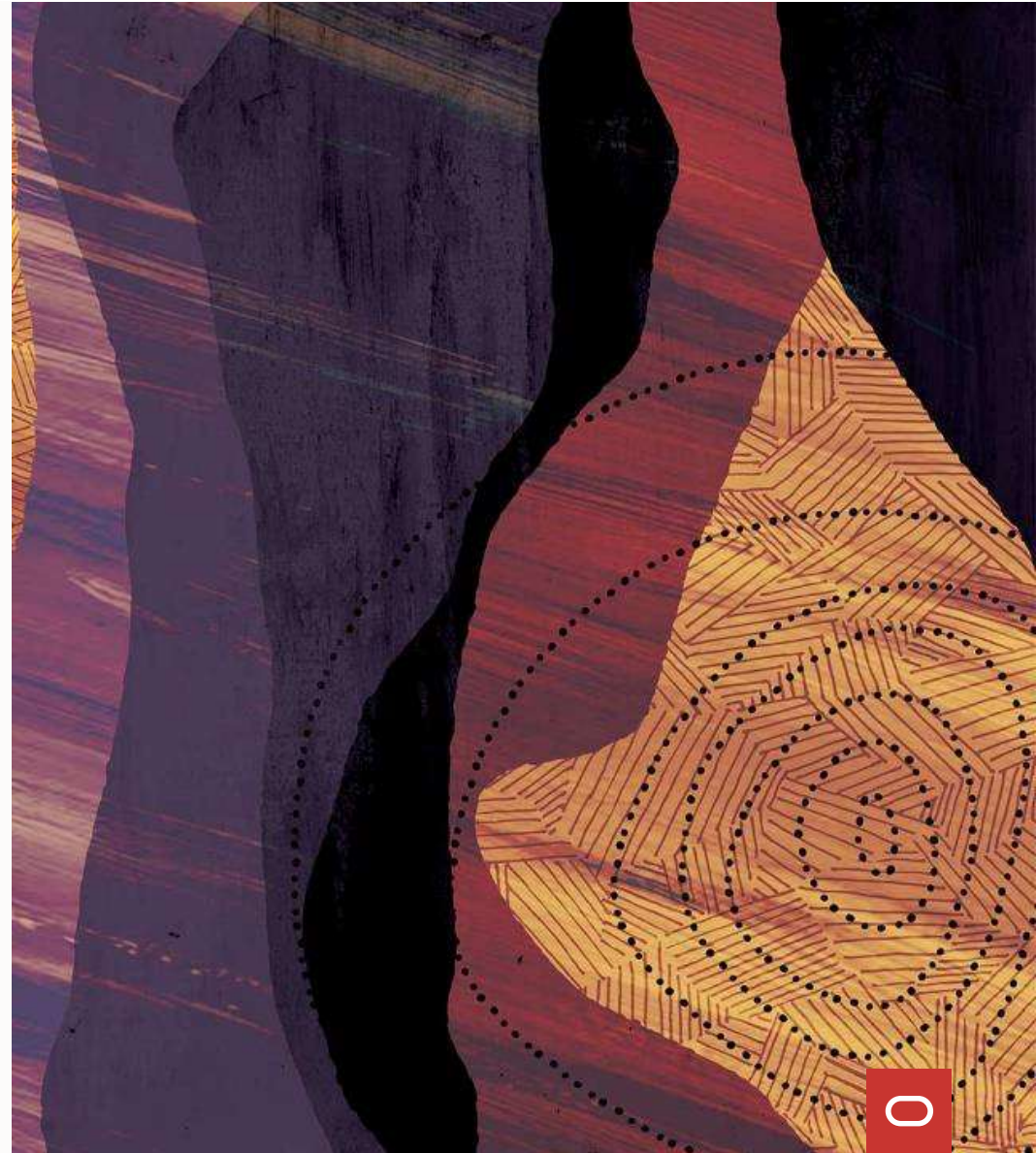
The Inescapable Conclusion

- IBM no longer makes the code to RHEL available without a subscription. Is that, in Red Hat's own words, "designed to be publicly accessible"? The subscription terms make distribution of that code a material breach. Can "anyone... see, modify, and distribute the code as they see fit"?
- Without commenting on the requirements of particular open source licenses or other legal questions, the combination of the removal of the source code from public access, and the restrictions on distribution in IBM's agreements, render RHEL inconsistent with both the OSI's Open Source Definition and the FSF's Free Software Definition.

References – Current As Of July 10, 2023

- FSF What is Free Software?
<https://www.gnu.org/philosophy/free-sw.en.html>
- OSI Open Source Definition
<https://opensource.org/osd/>
- Red Hat: What is open source?
<https://www.redhat.com/en/topics/open-source/what-is-open-source>
- RHEL Subscription Terms, Appendix 1:
https://www.redhat.com/licenses/Appendix_1_Global_English_20230309.pdf
- Red Hat Cloud Subscription Terms:
https://www.redhat.com/licenses/cloud_cssa/GLOBAL_Cloud_Software_Subscription_Agreement_English_20171117.pdf

Thank you!





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