Dear Sir/Madam,

We present to you the next edition of our Software Licensing Bulletin, which highlights the concepts of IBM® Software licensed under The International Program Licence Agreement (IPLA) - Backup use defined.

The International Program Licence Agreement (IPLA) has no specific terms concerning use of a programme in backup mode but it defines charges for the ‘authorised use’ of the programme that are based on the level of use a customer acquires. This is documented in a Proof of Entitlement (PoE) that accompanies each program. Also, the IPLA does not restrict the movement of a program from one machine to another within the authorised use on the PoE. However, if a program has a charge for ‘each copy’, there is no backup copy allowed without a charge for use.

The intent of the backup scenario is to enable the customer to continue to be operational if an emergency occurs. This is frequently referred to as backup use, disaster recovery, or abbreviated BRS when a backup and recovery service is involved. For programs running or resident on backup machines, IBM defines three types of situations: cold, warm and hot concerning the copy of the program used for backup purposes:-

- **Cold** - a copy of the program may be stored for backup purposes or within the authorised use on a machine as long as the program has not been started. There is no charge for this copy and no additional use authorisation is required.
- **Warm** - a copy of the program may reside for backup purposes or within the authorised use on a machine and is started, but is ‘idling’, and is not doing any work of any kind. There is no charge for this copy and no additional use authorisation is required.
- **Hot** - a copy of the program may reside for backup purposes or within the authorised use on a machine, is started and is ‘doing work’. However, this program requires a use authorization and there is a charge for this copy.

‘Doing Work’, includes, for example, production, development, program maintenance, and testing. It also could include other activities such as mining of transactions, updating of files, synchronisation of programs, data or other resources (e.g. active linking with another machine, program, data base or other resource, etc.).

In the case of a program or system configuration that is designed to support a high availability environment, the program is considered to be doing work in both the ‘warm’ and ‘hot’ situations and a use authorisation and charge is required.

A scheduled hardware outage, such as preventive maintenance or installation of upgrades, is not considered a backup situation. However, the same guidelines apply. In addition, the outage should not be scheduled during peak (e.g. end-of-month) processing times if the program has a capacity-based charging metric and the secondary machine has more capacity than the primary machine.

We hope the bulletin was informative. We would be happy to provide you additional information that you may require on the subject. Please write to us at in-fmkgmbulletin@kpmg.com, for any queries or feedback.

Regards,

KPMG in India

About KPMG in India’s software licensing team: We have an experienced team of over 100+ professionals in India with diverse and in-depth knowledge of software licence, software asset management tool, Intellectual Property (IP) and contract review.

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