



[Are freedom to operate searches compulsory in Horizon 2020?](#) ^[1]

Category:

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In Horizon 2020, generally speaking, there is no obligation to carry out freedom to operate searches. However, performing this type of search is usually good practice, as it will enable you to identify infringement risks linked to the exploitation of the project results. Freedom to operate searches are a good way of ensuring that third parties' rights will not get in the way of exploitation ? this information can be crucial at the proposal stage. For instance, finding out that there is only a limited freedom to operate might result in the necessity to contact third parties and ask for a licence ? depending on the terms associated with the grant of this licence, you may consider that the project is no longer worthwhile, or will cost substantially more than what was previously envisioned.

However, depending on the funding scheme chosen, specific requirements may apply. For instance, under the Horizon 2020 SME Instrument Phase 2 funding scheme, each beneficiary has the obligation to ensure its possibility to commercially exploit the results (freedom to operate)?. This obligation is explicitly set forth under article 26.3 (Rights of third parties?) of the model grant agreement for Phase 2 of the SME Instrument. As you can see, no obligation to carry out a search is explicitly mentioned, but doing so will in our opinion be necessary in many cases for the beneficiary to make sure that it complies with article 26.3.

Related Links:

- [European IPR Helpdesk Glossary - Freedom to operate search?](#) ^[3]
- [Model \(Multi-Beneficiary\) Grant Agreement for H2020 SME Instrument Ph.2](#) ^[4]

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[4] http://ec.europa.eu/research/participants/data/ref/h2020/mga/sme/h2020-mga-sme-2-multi_en.pdf