



## INFORMATION BLOCKING EXCEPTION #8: Licensing

**Official Title** – Exception #8 Licensing Exception: When will an actor’s practice to license interoperability elements in order for EHI to be accessed, exchanged, or used not be considered information blocking?

**Exception applies if** an actor licenses interoperability elements for electronic health information (EHI) to be accessed, exchanged, or used, provided certain conditions are met.

**Objective of the Exception:** This exception allows actors to protect the value of their innovations and charge reasonable royalties in order to earn returns on the investments they have made to develop, maintain, and update those innovations.

### Key Conditions of the Exception:

- ✓ The negotiating a license conditions: An actor must begin license negotiations with the requestor within 10 business days from receipt of the request and negotiate a license within 30 business days from receipt of the request.
- ✓ The licensing conditions:
  - Scope of rights
  - Reasonable royalty
  - Non-discriminatory terms
  - Collateral terms
  - Non-disclosure agreement
- ✓ Additional conditions relating to the provision of interoperability elements.

**Addressed on:** [Page 25888 of final rule](#). For a detailed explanation of this exception also please reference our detailed [cheat sheet](#).