
The Directive on the re-use of public sector information (the PSI Directive) represents the culmination of efforts that commenced in the late 1980s with the objective of promoting the development of a European data products industry based on public sector information.

A historical account of the events, policies and documents forming the background to the PSI Directive is provided by Janssen and Dumortier in “Towards a European Framework for the Re-use of Public Sector Information: A long and winding road” (2003). This article considers the 1989 Synergy Guidelines, the Publaw Reports and The Green Paper on Public Sector Information in the Information Society. A further major report which looks at the economic arguments supporting the commercialisation of European public sector information is the PIRA Report (2000). The PIRA Report is discussed separately below.

It was recognised that the public sector is the largest single producer of information in Europe and there was the potential for very substantial social and economic benefits stood to be gained if this information were available for access and re-use. However, without clear policies or uniform practices in relation to access to and re-use of public sector information, European content firms engaging in the aggregation of information resources into value-added information products were perceived to be at a competitive disadvantage in comparison to their US counterparts. The lack of harmonisation of policies and practices regarding public sector information resources among the EU Member States was regarded as a barrier to the development of digital products and services based on information obtained from different countries. It was

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5 Problems were identified with response times to requests for information, pricing, existing exclusive deals and the overall lack of transparency: see Background http://europa.eu.int/information_society/policy/psi/directive/index_en.htm. Such problems had been identified as far back as the 1980s, in the Introduction to the Commission of the European
in this context that PSI Directive was negotiated. It establishes a framework of rules governing the re-use of existing documents held by the public sector bodies of EU member states.

The measures set out in the PSI Directive are mandatory on all EU member states, which were required to incorporate them into their national laws by 1 July 2005, to review the application of the EU Directive by 1 July 2008. As of the end of 2005, 12 countries (including France, Ireland, Italy, Sweden, the Netherlands and the UK) had notified the European Commission that they had given effect to the Directive. In the UK, the Directive has been given effect by the Re-use of Public Sector Information Regulations 2005, which came into force on 1 July 2005. In May 2005, the UK government established an Office of Public Sector Information with responsibility for the coordination of policy standards on the re-use of public sector information.

The PSI Directive establishes a minimum set of rules governing the re-use and the practical means of facilitating re-use of existing documents held by public sector bodies of EU Member States.

The principles set out in the PSI Directive may be summarised as follows:

- where re-use of public sector documents is permitted, the documents will be re-usable for commercial or non-commercial purposes (in accordance

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Communities, Guidelines for Improving the Synergy Between the Public and Private Sectors in the Information Market (1989) 5:

Governments and public sector bodies collect large amounts of data and information, as part of their routine functions, which could be made available to the private sector for the construction and marketing of electronic database services. The private sector is well placed to combine information from a variety of government sources, and its prime function is to produce and distribute information products oriented to the needs of the market. In order to develop and strengthen the information industry, a positive initiative is required from governments, to encourage the use and exploitation of public sector data and information. However, there are few convergent policies or guidelines within Member States relating to the role of the public sector in this area. In addition, if there are different policies operating in the different Member States, then it will be very difficult to develop the market. It is therefore desirable that national policies, as far as they exist, be coordinated at the Community level in order to allow the majority of EC countries not yet having such a policy to follow these orientations on a national level.

6 Article 12.1
7 Article 13
8 See Implementation
10 See the Office of Public Sector Information’s website http://www.opsi.gov.uk/. The OPSI, attached to the Cabinet Office, will advise on and regulate the operation of the re-use of public sector information, and will set standards and provide a practical framework to increase transparency and remove obstacles to re-use.
11 Note that ‘public sector body’ is defined in Article 2 as ‘the State, regional or local authorities, bodies governed by public law and associations formed by one or several such authorities or one or several such bodies governed by public law’.

with the conditions in Articles 5 – 11) and, where possible, will be made available through electronic means;\(^\text{12}\)

- public sector bodies are - through electronic means where possible and appropriate - to process requests for re-use and make documents available for re-use to applicants or, if a licence is needed, to finalise the licence offer to the applicant within a reasonable time;\(^\text{13}\)

- public sector bodies shall make documents available in any pre-existing format or language, through electronic means where possible and appropriate;\(^\text{14}\)

- where charges are made:
  
  the total income from supplying and allowing re-use of documents shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment;\(^\text{15}\)

- any conditions and charges applying to the re-use of documents must be transparent, i.e. they must be pre-established and published, through electronic means where possible and appropriate;\(^\text{16}\)

- public sector bodies may allow for re-use of documents without conditions or may impose conditions, where appropriate, in the form of a licence, and such conditions are not to unnecessarily restrict possibilities for re-use and are not to be used to restrict competition;\(^\text{17}\)

- licences can be adapted to meet particular licence applications and be made available in electronic form to enable them to be processed electronically and Member States are to encourage all public sector bodies to use the standard licences;\(^\text{18}\)

- practical arrangements must be in place to:
  
  facilitate the search for documents available for re-use, such as asset lists, accessible preferably online, of main documents and portal sites that are linked to decentralized asset lists;\(^\text{19}\)

- any conditions on the re-use of documents must be “non-discriminatory for comparable categories of re-use”;\(^\text{20}\)

- where documents are re-used by a public sector body as input for commercial activities falling outside the scope of its public tasks, the same

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\(^{12}\) Article 3.  
\(^{13}\) Article 4.  
\(^{14}\) Article 5.  
\(^{15}\) Article 6.  
\(^{16}\) Article 7.  
\(^{17}\) Article 8.1.  
\(^{18}\) Article 8.2.  
\(^{19}\) Article 9.  
\(^{20}\) Article 10.1.
chances and other conditions are to apply to the supply of the documents for these activities as apply to other users;\textsuperscript{21}

• the re-use of documents is to be open to all potential actors in the market;

• contracts or other arrangements between the public sector bodies holding the documents and third parties shall not grant exclusive rights\textsuperscript{22}; and

• exclusive arrangements established after the entry into force of the Directive are to be transparent and made public and all existing exclusive arrangements that do not qualify for the exception in Art 11.2 are to be terminated at the end of the contract or not later than 31 December 2008.\textsuperscript{23}

While the PSI Directive has established an EU-wide legal framework governing policies and practices relating to re-use of public sector information, it must be viewed alongside with other EU initiatives designed to make digital content in Europe more accessible, usable and exploitable.

Of particular relevance is eContentplus, a 4 year program (2005 - 2008) established by the European Commission’s Directorate-General for Information Society and Media, with a budget of €149 million to:

Tackle organisational barriers and promote take up of leading-edge technical solutions to improve accessibility and usability of digital material in a multilingual environment.\textsuperscript{24}

The eContentplus program has targeted three specific areas where development has been slow and the program can have a maximum impact:

• geographic information;

• educational content; and

• cultural, scientific and scholarly content.\textsuperscript{25}

The aim of the program was to facilitate:

\textsuperscript{21} Article 10.2.
\textsuperscript{22} Article 11 of the Directive. There is a public interest exception to this prohibition in Article 11(2): ‘Where an exclusive right is necessary for the provision of a service in the public interest, the validity of the reason for granting such an exclusive right shall be subject to regular review, and shall, in any event, be reviewed every three years. The exclusive arrangements established after the entry into force of this Directive shall be transparent and made public.’
\textsuperscript{23} Article 11.3.
\textsuperscript{25} For details of the eContentplus Work Program across these areas of content, see http://europa.eu.int/information_society/activities/econtentplus/docs/call_2005/ecp_work_programme_2005.pdf
access to digital content, its use and exploitation, enhancing quality of content with well-defined metadata, and reinforcing cooperation between digital content stakeholders.