

## MEMBER STATES CONSULTATION

Review of the application of Directive 2003/98/EEC on the re-use of public sector information, including the extent of the increase in re-use of public sector documents and the effects of the principles applied to charging.

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## **I. Implementation and impact of the Directive**

**1.**

**Q:** In addition to transposition measures, could you please indicate additional practical/deployment measures (e.g. national portals, asset lists, etc.), that have been taken in your State or by the main Public Sector Content Holders in your country to facilitate the re-use of PSI?

**A:** An information portal has been developed ([www.psi.gov.ie](http://www.psi.gov.ie)) that includes the following documents:

- **EU Directive;**
- **Statutory Instruments (S.I) transposing directive into Irish legislation;**
- **Standard PSI Licence; and**
- **Notification issued to all public bodies of their obligations under the Directive**

**The portal contains links to the policy statement of each public body as published on their own website. The portal is also used to publish news, events and external links relating to PSI.**

**Each public sector body has also published a statement on PSI on their main website outlining their policy on the release of information, any licensing or other conditions applied to the release of information, any charging regime in place, a classification of information held by the body (via the Section 15 Freedom of Information Manual) and the contact details of the nominated PSI officer for the body.**

**An information seminar was held in October, 2007 for public and private sector actors in the PSI arena.**

**2.**

**Q:** Do you consider that the Directive has had an impact on the information market in your country? If so, how?

**A:** There is no significant evidence that the directive has had any perceivable impact on the information market in Ireland. Contributions to this include, inter alia:

- the lack of publishers in Ireland to exploit the potential of the re-use of material;
- publishers may not be aware of the true potential of the market; and
- there may be a marketing or information deficit in relation to the availability of the information available and its potential in developing new products.

Government reports from as far back as 1997 (Information Society Ireland - Strategy for Action) and 1999 (Recommended Guidelines for Public Sector Organisations) anticipated the re-use of PSI. The concept of re-use of PSI is therefore not new to Ireland however there is little evidence of any effort by private industry to exploit this potential.

**3.**

**Q:** Has the implementation of the Directive resulted in a revised charging policy by public sector bodies?

**A:** At the outset all public bodies were advised that, where possible, all material should be made available at little or no charge. The vast majority of bodies have taken this advice on board and are making material available free of charge. Where costs are incurred in the production of the material these costs are passed on to the requester. However, in line with Freedom of Information legislation, these costs are kept to a minimum. There is no evidence of any public sector body implementing a revised charging policy upon implementation of the Directive.

4.

**Q:** What kind of problems do you believe private companies in your country are encountering when wishing to reuse public sector information?

**A:** The main issue for private sector companies appears to be a lack of awareness of the availability and potential for re-use of public sector information. This issue was evidenced by the lack of participation by private sector companies at the information seminar held in October 2007, where no private-sector publishers participated (except the ePSIPlus national representative). A number of private-sector users of PSI were in attendance however they are not adding value to the data nor are they producing new products from existing PSI. No evidence of any problems exists which might hinder private-sector companies exploiting public-sector information.

## **II. Scope of the Directive**

5.

**Q:** Would it be appropriate to include cultural establishments, education and research organisations and public service broadcasters, within the scope of the Directive?

**A:** The nature of the information held by these bodies is such that it may place a heavy burden in this sector in areas such as administration, the provision of an efficient service, third-party intellectual property rights and copyright. Some of these organisations also act as archivists which may have specific issues to overcome. The extension of the Directive to include these sectors needs a careful and detailed consideration as well as an in-depth consultation with the representative bodies of the organisations involved.

6.

**Q:** What would be the impact and societal benefits of including these sectors within the scope of the Directive? What are the problems these excluded sectors may encounter should they be included within the scope of the Directive?

**A:** See 5 above for potential insight. Many of the organisations involved in these sectors have commercial activities that help to fund their overall budget. Including them in the Directive may impact significantly on their ability to carry on these commercial activities and therefore their funding mechanisms. Any assessment of the impact of the Directive would need to include the commercial activities of the organisations involved as part of the overall consultation process.

### **III. Looking ahead**

7.

**Q:** What technical, organisational, legal and practical measures could be established by national administrations and/or at European level to optimise the re-use of PSI (e.g. efficient dispute settlement mechanisms)?

**A:** Greater clarification is required in relation to terms such as “document”, “re-use”, “public task” and “reasonable return on investment”. The Commission should examine the possibility of publishing an official, comprehensive guide clarifying these terms to all Member States.

Consideration should be given to the effort involved by public-sector bodies in developing asset registers, setting up licence regimes, creating formal dispute settlement mechanisms etc. when the demand from the private-sector for information to re-use is still nascent. In Ireland at least, it appears that a concerted effort to raise awareness of the potential of the re-use of PSI is needed.

8.

Q: Should legislative amendments be introduced in the Directive to make it more efficient? If so, which ones and why? Would guidelines on proper implementation and application of the Directive be useful?

**A: The following steps are suggested to make the directive more efficient:**

- **provide clarification of terms as outlined at 7 above;**
- **postpone any new amendments to the current directive until such time as the existing legislation is fully operational in all Member States. This includes all public-sector bodies embracing the concepts of PSI re-use and the information sector re-using data on a regular basis;**
- **develop a strategy for the measurement of existing markets and the raising of awareness among private-sector companies;**
- **examine the potential of standardisation and simplification of licensing regimes across all Member States; and**
- **provide clarification on the circumstances under which exclusive licences may be granted.**

9.

Q: Additional comments

**A: Awareness campaigns need to continue with data holders and data re-users at all levels within Member States, at EU and OECD level.**

**Any development of asset registers need to ensure that a standard exists across all Member States however the effort involved in maintaining these registers must be kept to a minimum from the public-sector perspective. The issue of multi-lingual registers also needs to be examined to ensure that fair competition exists across all Member States.**