

European Commission  
Directorate-General for Information Society and Media  
Unit E-4 Digital Libraries and Public Sector Information  
For the attention of Mr. Javier Hernandez-Ros

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### **Compass-Verlag GmbH**

#### **Submission to the European Commission on the Re-Use of Public Sector Information Directive**

##### About the Compass-Group

Compass-Group, a fully privately held company, was founded more than 140 years ago and has developed to one of the leading providers of business information in Austria. We offer ever-correct company information on a daily update. Our clients are the most important domestic companies such as banks and other industries. Over 60 Million annual database queries and more than 10.000 single users per day formidably show the market relevance of the group.

The main basic data our company works with fall under the PSI guidelines therefore we have a great and substantial interest in an open and fair PSI environment.

##### i. Implementation and impact of the Directive

Question 1: In your opinion, has the Directive been properly implemented and applied in your country and beyond? If so, please indicate ways in which public sector bodies are contributing to facilitating access and re-use of their information. If not so, please give indications on what kind of problems you are encountering when wishing to reuse public sector information.

1. Formally the directive has been properly implemented and even an asset list has been installed. Nevertheless the application of the Austrian IWG is not at all satisfying. Hardly any public sector information holder (PSIH) allows or even facilitates the re-use of its data. The main obstacle accounted so far is a pretended non-applicability of the directive at all. (e.g. Ministry of Internal Affairs concerning the register of non profit organizations, the Ministry of Justice concerning the company register). Not allowing the re-use is based on the argument that according to IWG/PSI directive existing access rules are not touched by the law/directive (IWG - Informationsweiterverwendungsgesetz § 2 Abs. 2/PSI directive Art. 1 (3)). Deliberately issues of access policies are mixed with issues of re-use policies.

In general we encounter a very strict and not at all open attitude towards the re-use of PSI in the public sector. Nevertheless there are good examples: The federal Office for Metrology and Surveying revised their prize model and most notably the Austrian National Bank who declared

everything on their website free for re-use.

The existing asset list (<http://www.help.gv.at/iwr/>) contains only a very small number of relevant PSI data. A good part of the listed assets are brochures published by ministries.

Most of the sources relevant for re-use are not published (e.g. the trade register, the register of non profit organizations, registers of the Chambers etc.). Not a single piece of information from the local municipalities' level or federal state level can be found.

Concerning the implementation of the directive into national law one has to specifically mention the situation of having one federal law and nine state laws.

Question 2: Has the implementation of the Directive resulted in a revised charging policy by public sector bodies? If so, has this had any impact, e.g. on the volume of information downloaded, number of hits, number of re-users registered, etc?

2. In general: no. The only exemption is the BEV (Federal Office for Metrology and Surveying) – according to the presentation of Ms Schennach at the ePSIplus Conference:

[http://www.epsiplus.net/events/epsiplus\\_conference\\_psi\\_re\\_use\\_who\\_takes\\_action\\_next/schenna\\_ch](http://www.epsiplus.net/events/epsiplus_conference_psi_re_use_who_takes_action_next/schenna_ch) - the revision of the pricing scheme has resulted in a significant rise of the sold data and products.

As the directive/national law (IWG) is hardly applied by PSIH there are no indications or examples about changes in the charging policies.

## ii. Scope of the Directive

Question 3: In your opinion would it be appropriate to include cultural establishments, education and research organisations and public service broadcasters, within the scope of the Directive?

3. An extension of the directive would of course be warmly welcomed.

Public service broadcasters tend to have huge archives of broadcasted information (for example entertainment, documentaries, news, features) that have been produced by public funding. An important issue here is that third parties in each and every part in the production chain could claim a share of the copyright of the produced programs. Therefore a solution for collective copyright issues and orphan works has to be found.

Concerning education and research organizations the actual ownership/copyright will lie with scientists and researchers and therefore again copyright issues seem to be a significant obstacle.

Concerning cultural establishments a differentiation between ownership in museums, archives, theatres, concerts etc. has to be made. With theatre performances and concert works copyright issues arise with the performers of this works of art.

Significantly different are the issues concerning museums and archives where in most cases works of art which are free of copyright are stored. (At a certain degree the problem of orphan works remains.)

In these cases the physical access to the works of art is often restricted for re-use therefore it is not possible to digitize the works of art which are of interest for re-use. These institutions tend to gain new copyrights on the digitized files which definitely should be under the rules of the directive.

Question 4: 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?

4. As mentioned before access to works of art in museums and archives would open up the chance for digital cultural exchange. This could also meet the demands of a wider audience and encourage people to enjoy these works of art in reality.

Of course, many cultural institutions are under regimes of partial or full self funding and therefore may be under pressure due to possible PSI regulations.

### iii. Looking ahead

Question 5: 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)?

The most important issue is that the directive as it stands becomes stricter in the obligations for the PSIH. As long as the PSIH has no obligations it will always be difficult to convince the PSIH to open the access to its data and information.

A working redress process is missing!

The Austrian national law foresees an arbitration process. This process can take quite a significant time and in the end one might end up with a legal court case. This is a significant issue as the cost of a court case would often exceed the monetary value of the data themselves. The regulations for asset registers should be properly implemented.

A program to build awareness amongst PSI holders steered by the Austrian conclusions would be warmly welcomed.

Question 6: 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?

6. Yes, especially

#### *Article 1 (3)*

As seen in the Austrian cases existing access regimes are misused as arguments to block the re-use at all. A clarification that access for individual citizens and commercial re-use are two different issues is needed.

#### *Article 2 (4)*

A better and stricter definition of the public task is needed. Especially the question of whether a public task is fulfilled or not has to be investigated.

#### *Article (3)*

The general principal that the PSIH can freely decide (allow) on whether PSI is re-used or not has to be questioned.

#### *Article 4 (4)*

Proper obligations for the rules in the redress mechanism have to be implemented.

## Article 6

The terms of “collection, production, reproduction and dissemination” are interpreted quite widely by PSIHS. Especially in cases where (e.g. with most public registers) the once who are obligated to enter their information such a register have already paid for this act. A further charging beyond marginal costs should be forbidden.

Guidelines and good practices would definitely help the PSIHS to rightly apply the directive and the national law.

Vienna, September 12, 2008