

FAEP Input to the Public Consultation on the PSI Directive

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Introduction

The European Federation of Magazine Publishers (FAEP) welcomes the opportunity to respond to the above Commission Public Consultation. While we will attempt to answer certain questions as best we can, we also submit this position covering the consultation in a broader way.

The European Federation of Magazine Publishers (FAEP) is the representative trade association of the European periodical press. Our membership is made up of 27 national magazine trade associations from the EU Member States and 25 European and international publishing companies. In total, we represent the interests of 15,000 individual publishing companies (the vast majority being SMEs), turning out more than 50,000 titles per year, directly employing nearly 200,000 EU citizens (with a multiple of that figure involved in the upstream and downstream activities) and with annual turnover in the EU in excess of 40 billion Euros¹.

FAEP Comments on the Public Consultation

FAEP welcomes the opportunity to make an input, at this early stage, to the consultation being carried out before any eventual review of the Public Sector Information Directive.

FAEP was active the decision-making process leading to the adoption of the Directive in 2003 and continues to maintain an interest in ensuring that public sector bodies have clear and concise rules for providing public sector information (PSI) as easily and conveniently as possible.

Europe's periodical press relies on access to many kinds of PSI in order to deliver relevant and timely information to Europe's citizens and economic operators.

FAEP has no comments on the questions related to the implementation of the Directive at national level. We do, however, wish to remind the Commission of our original position five years ago concerning three main areas of the Directive

¹ The periodical press industry includes retail magazines, specialist magazines, business to business magazines as well as scientific and academic journals.

In any review of the existing Directive, FAEP would like to see the following points addressed:

1. The definition of “document” versus “information”;
2. The proposed system of charging; and
3. The blanket exclusion of educational and cultural establishments from the scope of the Directive.

1. The definition of “document” versus “information”

Europe's periodical press is in full agreement with reasoning of the European Parliament at the time that in the age of the “information society”, the word “information” is far more appropriate than “document”, which is considerably more restrictive in its meaning. To open the market only to public sector documents would, in our view, be a wasted opportunity. Indeed, we would even question the need for revising the Directive in this domain if it is limited only to documents.

FAEP would therefore urge that the scope of any revised Directive be applied to “public sector information” and not just “public sector documents”.

2. Charges

The wording of the existing Directive is not very helpful. If any revised Directive is to have **any** useful effect and if it is to achieve even a small part of its aims of opening up the public sector information market for the benefit of the economy and citizens, public sector bodies in the EU, like their federal counterparts in the USA, must not be allowed to profit automatically from disseminating information to business and citizens alike: information that has already been paid for by business and citizens in the form of taxation.

To allow public sector bodies to earn a “reasonable return on investment” would, quite simply, be to allow for a continuation of existing policies in certain Member States, where such “profit” charges are the norm. This is, in fact, a situation whereby public bodies can profit from selling on public information, which has already been paid for in the form of taxes on businesses and citizens. Europe's magazine publishers find this an unfair situation and consider that to allow such systems to continue will not create the open, vibrant and rich market in public information that the Commission is aiming for.

Once again, and as stated previously, it would seem that inertia is being promoted in the EU. An analysis carried out by the UK Treasury Department suggested that “Simple inertia and the desire for a quiet life may be the principal barriers to extending the

utilisation of government information, while covering costs”². Meanwhile, in the United States, where low charging policies were introduced, the exploitation of federal public information has boomed. A market worth billions of dollars has been created. It makes very simple sense: the market will be stimulated if citizens and business can access the information easily and at low costs, it will not thrive if there is a complex and expensive pricing system in place.

Furthermore, as the main beneficiaries of this Directive will be mostly SMEs, who might not have the resources to challenge a public sector body, the burden of proof for the cost should lie with the public sector body.

As with our position on the word “document”, we do not see the need for a revised Directive that allows for a continuation of existing practices in the Member States. If the aim of the Directive is to open the market and to create economic activity in the sector, it must actually provide for a new system which business and citizens can gain from.

For this reason, FAEP would like any review of the Directive to provide for a pricing system which enables the re-use at the lowest cost, and that the burden of proof for these cost lies with the public sector body.

3. Cultural and educational establishments

While we recognise that such bodies cannot be considered in the same category as other government departments or administrative bodies, FAEP understands that cultural and educational bodies hold different types of public sector information and that such bodies have a fair right to exploit this information for commercial purposes in order to re-invest in the educational/cultural heritage.

However, we do not consider that a blanket exception for these establishments is fair or reasonable. Should a museum be allowed to charge, at a profit, for the Press to show an image of an artefact or painting? Indeed, should a museum, such as the Louvre for example, be allowed to charge at a profit for the Press simply to show the façade of the Louvre building?

It is not considered fair that such establishments could profit unduly from press publishers, which attempts simply to reproduce an image of a publicly owned building or artefact/painting etc. We would remind here that a considerable majority of Europe’s publishers are SMEs. This is particularly the case for specialist cultural or educational publications or sector-specific directory publishers. For public bodies to charge, at a profit, for the reproduction of well-known publicly owned buildings/artefacts etc. is often a great burden to these small enterprises.

² Appendix to the HM Treasury Spending Review 2000.

Europe's print and online publishers, therefore, do not consider it fair that such establishments are totally excluded from the scope of the Directive.

FAEP believes that wording could and should be found to include these institutions in the scope, at the same time as protecting their legitimate commercial interests.