

Comments for the 'On-line Consultation for the purposes of the review of the PSI Directive' (http://ec.europa.eu/information_society/policy/psi/docs/pdfs/online_consultation/review.pdf) by the Green League of Finland

Prepared by the Monitoring group of the Information Society Programme of the Green League

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i. Implementation and impact of the Directive

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.

Comment:

In general terms, PSI has been well adapted to the Finnish legislative and administration system, partly because of pre-existing laws and practices of openness in the Finnish administrative culture. However, there are still quite a few cases in which public digital access to data is quite restricted. For example, many official documents containing for example cartographic or land cadaster information are available only as paper copies or digital copies corresponding a paper copy of the data representation available at the cost of reproduction. Access to the databases behind these documents can be rather expensive and it may include quite restrictive conditions.

The rationale behind these practices is commonly budgetary: Funds raised by certain administrative bodies or governmental institutions within the administration by sales of data contribute significant parts of the operative budget of these organisations. Typically, target levels of data sales income are set within the organisations in budget preparations, thus making this income rather a mandatory activity than additional source of income.

As a general principle the common equal rules and rates for accessing the public information is preferable. However, in the unpreferable case of high license fees etc. for the public datasets, it should be made possible for the non-commercial organisations (NGO) and other non-profit organisations to access the data associated with their activities with reasonable rates, preferable maximally at the level of the marginal cost of data access and reproduction. It should be stated clearly that the NGOs have equal rights for accessing the data as individual citizens and/or companies.

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?

Comment:

In recent years there has been certain changes in the practices, and there are large differences within the administration. However, PSI directive has generally not been publicly cited as the primary factor in these changes, but it has definitely been a factor influencing towards a certain direction.

It is even possible the existence and implications of the directive are not fully recognized in for example municipal level.

In general, in privacy point of view in the information society, too extensive records and analysis of download practices etc of private citizens may violate privacy of individual citizens. Proper consideration, care and confidentiality are required, as such analysis results may be quite misleading: For example, the purpose of accessing different sources of data may not be obvious, and for example malicious personal accusations might be fabricated based on purposefully selected combinations of data access log information.

ii. Scope of the Directive

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?

Comment:

In general, the cultural establishments, education and research organisations and public service broadcasters should be in the scope of PSI. It should be investigated if different religious organisations should be included (at least with voluntarily based arrangements) as they in certain countries keep or have kept valuable public records on population, have culturally important archives etc.

Publicly generated data should be as freely available to the different users as possible, as the information which is not available to the ones who need it is of no value. Creating information which could be used and simultaneously preventing the use of it is a waste of European resources. The same applies to both commercial and non-commercial use of the data.

This comment takes no position on copyright of publicly created information. However, the preferred inclusion of the cultural establishments, education and research organisations and public service broadcasters to the PSI directive should not influence negatively the budgets of the public bodies now providing these services. The acquired funds from sales of data should be compensated, preferable along with technical and organisational improvements which allows improved efficiency of the society etc. to return the investment with increased economic activity. To enable this, interfaces to the PSI services should be open and technically as interoperable with different systems as possible.

As the level and activity of use of the data is often and sometimes quite justifiably considered as an indicator of importance of the service, it is quite important such reference systems are generally available and technically viable. These systems could carry the source information metadata along with the actual data. In addition, the data can be "watermarked" by adding structured noise to the data, such as errors forming distinct patterns decodeable with different techniques. These watermarking techniques must be applied with care to actual datasets, for example not to disturb the actual functionality of a geographic information system with intentional errors intended for watermarking the datasets.

In the special case of scientific datasets, environmental, public health, econometric etc monitoring data and similar statistically or scientifically oriented information, the OECD Principles and Guidelines for Access to Research Data from Public Funding

(<http://www.oecd.org/dataoecd/9/61/38500813.pdf>) should be followed. The release of the accumulated data and information for the use of the general scientific community within a certain timeframe should be considered a condition for funding. Deviation from this should require justification, and explicitly the public-private co-operation should not be used as an excuse to block all scientifically viable information. However, it must be assured that justifiable exceptions are possible in order to enable such a co-operation, if really needed. "Open innovation", "Creative commons" and other similar concepts (http://en.wikipedia.org/wiki/Open_innovation http://en.wikipedia.org/wiki/Creative_commons) may still often be more preferable models of public-private partnership.

Equally, due academic and professional credit and acknowledgement must be assured to both the institutions enabling the production of the distributed public information and the researchers and other personnel who gathered and derived it with their innovative approach.

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?

There are potential liability issues in connection with datasets provided by the public bodies. For certain issues (weather and environment data for example) it should be possible for a public body to publish a dataset "as is" without full responsibility of the content of the data or its fitness for use, if professional level of attention is paid to ensure the highest level of accuracy achievable.

Increase use of public data will lead to new enterprises and commercial activity in case PSI is extensively enforced. Financing of the public bodies providing the data service may be jeopardised, if public compensation is not received.

The distribution and use of scientific datasets may require extensive work on creating common concepts, user manuals, ontologies for information exchange etc. There may be considerable inertia in changing the attitudes towards sharing certain kinds of information within the scientific community, thus implementing the directive may prove to be difficult or even impossible for scientific data.

iii. Looking ahead

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)?

Common reference and acknowledgement mechanisms for provided data.

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?

The limitation in the directive, which explicitly states that the member countries are not in any way obliged to allow re-use of public information, may cause unnecessary differences in practices in between different member countries.

Expert groups and stationary bodies representing data users and providers for creating common guidelines could be a right solution for merely institutional issues. For many technical issues the user community may be the right body to select the applied solutions.

7. Other comments

If fees exceeding the marginal cost of reproduction are - as contrary to our general comment on PSI information - required for accessing any public information, reduced rates should be considered for media, non-governmental organisations, other branches of administration etc. In this case, a clear preference in access fees should be made to those using the information for non-commercial purposes as compared to the commercial users which are using the information for gaining profits by redistribution etc.

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