

MINUTES OF THE 4TH MEETING
OF THE PUBLIC SECTOR INFORMATION GROUP
LUXEMBOURG, 28 NOVEMBER 2003

1. Welcome and introduction by the Chairman.

The Chairman, Horst Forster, Director DG Information Society, welcomed the delegations and in particular the Norwegian delegation, participating to the group for the first time. He briefly outlined the goals of the Group in view of the imminent adoption of the directive on the re-use of public sector information:

- in relation to the transposition of the directive, the Group will exchange information on progress in transposition and will address questions of common interest.
- at the same time, the Group will serve as a platform for discussions and exchange of good practices on all issues related to the re-use of public sector information.

As to the name of the group, the chairman indicated that 'group to promote digital public data' may not cover exactly what the group is doing and that 'public sector information group' should perhaps be preferred. A web-site on public sector information was launched on Europa and can be consulted at the following address: http://europa.eu.int/information_society/topics/multi/psi/index_en.htm

2. Update on public sector information directive process

Yvo Volman gave an update on the negotiation process that led to a final directive text accepted by both Parliament and Council. He stressed that the final text of the directive contains all the main elements of the Commission proposal and highlighted the new elements added in the final phase of the negotiation (in particular provisions on practical tools facilitating re-use, on the obligation for public sector bodies to provide the calculation base for charges and on the transparency of means of redress). After publication of the directive in the Official Journal, Member States will have 18 months for transposition. Acceding countries will also have to comply with this deadline.

Luis Ferrão presented the benchmarking study, which will serve as a basis for the review of the directive, that will take place 3 years after the transposition date. The study will lead to a quantitative and qualitative assessment about issues such as transparency of conditions for re-use and cross-border licences for public sector information. The MS and acceding countries will be benchmarked in relation to each other and to the US. The Commission intends to give a positive follow-up to the suggestion made by the Norwegian delegation to also include Norway in the study. The call is expected to be published beginning 2004.

3. Transposition of the directive

The chairman invited the delegations to comment on the preparations for the transposition of the directive in their country. Such a round of comments on progress

made and issues encountered by the MS will also be one of the first agenda points of future meetings of the Group.

Sweden indicated that at the moment an analysis is ongoing on the issues that have to be dealt with in relation to the transposition (decrees and other legislation that have to be changed, new portals etc). It is, however, not only important to proceed to the formal transposition, but to achieve a change of culture in the public sector.

The **UK** has started a consultation process at national level to decide what type of transposition would be most suited. One crucial issue is the enforcement of the rules.

Belgium invoked the complex situation in Belgium, resulting from the way the country's administrative structures are organised. Most probably the chancellery of the Prime Minister will be in charge of transposition and a working group involving the most concerned actors has been set up.

Also in **Austria** transposition may not be straightforward, in view of the need to implement the directive at federal level and in the 9 provinces. The Ministry of Economic Affairs or the chancellery of the Prime Minister will be in charge of the process.

Germany will have to deal with similar issues, in view of the need to transpose in 16 states as well as at federal level. Nevertheless the German delegation expressed confidence in being able to transpose the directive within 18 months after publication. The Ministry of Labour and Economics will be responsible for the transposition.

Greece gave an overview of the general efforts to improve government's services to the citizens and indicated that specific issues related to the transposition of the directive were at present being studied.

Slovenia indicated that a law had been enacted taking into account all the elements of the Commission proposal for a directive. Now this legislation will have to be checked against the modifications made in the co-decision procedure.

In **France** a reflection on the issue of public sector data has been ongoing, channelled amongst others through the 'Forum des droits sur l'Internet'. France has set up an inter-ministerial working group, led by the Prime Minister's office. This group is looking at the best way to transpose the directive and at the different types of legislation (e.g. intellectual property rights law, competition laws) that would need to be adapted. Transposition within 18 months should be feasible.

The chairman invited all delegations to **indicate to the Commission the contact person(s) in the different countries that will be responsible for the transposition** of the directive. It would be good if these persons participate to the meetings of the public sector information Group. To ensure a proper preparation of the meetings, all countries will be asked to report in writing on progress in relation to the transposition process before every meeting of the Group.

The Commission offered its assistance to facilitate a smooth transposition. A helpdesk will be operational at the following address: info-psihelp@cec.eu.int and Commission staff is available for discussions in and with the countries.

In relation to the themes proposed for further meetings (see the slide presentation of Mr. Forster), Slovenia proposed to add IPR-issues. Portugal stressed the importance of the issue of charging/cost-accounting, in particular in relation to the financial autonomy of certain public sector bodies. Sweden was interested in the information from the European Union Institutions and whether the Institutions would comply with the requirements of the directive. The presentation in the afternoon on legal information from the Institutions by Mrs. Berteloot was very relevant in this respect.

The issue of dealing with complaints and putting in place control mechanisms was also raised as a potential topic for future meetings.

4. Policies on the re-use of PSI

Mr. Tallo (Estonian delegation) presented the very open policy on access to information in Estonia. The Estonian public information law provides access to a wide range of information: all information is public unless there is a very good reason for not disclosing it. The information can in principle be re-used. Access must be granted in the most rapid and convenient way, normally at no cost (at maximum there is a charge for the carrier-costs: in printed format, up to 20 pages are free of charge). The law foresees a period of 5 days for granting access to the information, this period can be prolonged under specific circumstances. The law even applies in some situations to private legal persons, if they execute public tasks, receive public money or have a natural monopoly. A system to deal with complaints and dispute has been put in place. Mr. Tallo stressed that the original fears of some parts of the administration (costs, workload, journalists' requests etc) have turned out to be unfounded.

Mr. Sadler (UK delegation) presented the UK information fair-trader scheme. He first outlined the context of this scheme: the functioning and scope of crown copyright, the policy of the UK government to encourage dissemination and re-use, the system of delegation of authority and the role of HMSO in relation to all these aspects. He outlined a number of problems encountered: administrative barriers, lack of a single coherent policy and absence of a single point of contact. The fair trader scheme looks at the behaviour of public sector bodies in the market place and awards a fair trading certificate to those that comply with a set of basic principles (openness, transparency, fairness...). At present, four of the so-called trading funds (dealing with important information resources in areas such as geographical data, meteorological data, business data etc.) have undergone or are undergoing a review under the fair-trader scheme and two of them have been accredited. The remaining eight trading funds will be reviewed next year. On a question regarding cross-subsidies and sanctions, the speaker replied that the trading funds acted under the supervision of an Advisory Panel in charge of dealing with complaints, and that in case of serious infringements the withdrawal of its right to licence could be imposed on the defaulting fund.

5. Re-use of legal information

The afternoon-session was chaired by Mr. Hernandez-Ros, head of unit in DG Information Society.

Under point 5 of the agenda, four concrete cases on the re-use of legal information were presented.

Mr. Platel (French delegation) gave a lively presentation of *Legifrance* the leading one-stop shop for free online access to French law and case-law. Mr Platel explained that the reason for such a broad and comprehensive portal was the basic rule enshrined in the Napoleon Civil Code that « nul est censé ignorer la loi » and the French 1989 Law which states that « tout document administratif doit être accessible à tous ». Mr Platel indicated that there is no copyright on the text of the law, nor should there be one on legal data (« données juridiques ») being outside the scope of

proprietary rights. Around 1.5 million persons/month use Legifrance. The portal also allows for an extensive re-use and the example of the UK click and use licence will be integrated in the system to facilitate re-use. The limits to Legifrance are said to be two-fold : on the one hand, the need to respect the private business sphere on consolidated or annotated (cross-referenced) legal texts and, on the other hand, the need to preserve the integrity/authenticity of the legal texts, as well as privacy requirements. Expected developments are « co-marquage » to account for the new legislative powers of the regions, thematic access to all legal texts on a particular topic, and rendering « online law » enforceable (downloads or prints from Legifrance to become opposable to public administration, etc. from 2004 onwards).

Mr T. van Engers presented a number of barriers to the re-use of information encountered in practice. He stressed in particular the problems related to the copyright on formats, the lack of exchange standards and the changing role of commercial publishers. He underlined the need for a task-oriented rather than free search approach concerning online access to legal information and demonstrated a concrete application that allowed for such a task-oriented search. Mr. Van Engers made the case for the harmonisation of the (cross-) reference tools and codes for legal documents, in particular through the adoption of appropriate standards. He highlighted, in particular, the importance of the MetaLex standard (an XML standard for the mark-up of legal sources) for the accessibility, exchangeability and maintainability of legal texts.

Under the heading ‘Legal queries using online services’, Mrs. Jansen Op de Haar and Mr. Peters presented the ‘Add-Wijzer’ project. The project has an original way of tackling the dispersion of different administrative and legal constraints stemming from the « space law » (referred to a particular spot or geographical area). The project develops an online legal atlas based on the merging of geographical information (maps) with legal, administrative and statistical or other information of both national and EU origin. This legal atlas can become a powerful tool facilitating decisions regarding, for instance, whether or not to build and where, where to install a particular business or a petrol station. It provides an online one-stop shop access to all the relevant legal (administrative, environmental) and economic (population, traffic flow, geological...) constraints applicable to a particular geographical location.

Finally, Mrs P. Berteloot from the Publications Office spoke on the re-use of legal information from EU institutions. She described the history of the Celex and EUR-Lex databases and explained the interinstitutional management of these databases. Celex and EUR-Lex will be merged in a single database and made available for free from July 2004 onwards. It remains to be seen what impact that will have on the current fee-based re-use licensing policy (there are at present 22 licence-holders) practised by the Publications Office. The actual prices of licences have been applicable since 1997 and are not going to change in 2004.

6. AOB and wrap up by the chairman

Under this heading, the chairman drew the following main points in relation to the afternoon session:

- 1) the role of private publishers needs to be reconsidered in the Internet environment

2) advice marks the border of added-value to legal information (governments should disclose information, but it is not up to the government to make advice-services available)

3) combining legal information with information from other sectors offers interesting new possibilities.

More in general, the participants were reminded of the need to **confirm the national contact persons to implement the public sector information directive** and that the name of the Group would be changed to Public sector information group to stress its pivotal role in the implementation of the PSI directive, alongside its more traditional role to promote digital public data.

Before closing the meeting, the chairman thanked everybody for the constructive participation and indicated end March as the tentative date for the next meeting.