

MINUTES
5TH MEETING PUBLIC SECTOR INFORMATION GROUP
LUXEMBOURG, 23 APRIL 2004

1. WELCOME AND INTRODUCTION BY THE CHAIRMAN.

The Chairman, Javier Hernandez-Ros, Head of Unit DG INFSO E4, welcomed the members of the PSI Group. He apologized for any inconvenience following the change of location of the meeting. He briefly outlined the agenda and the role of the Commission in the period of transposition of the directive:

- The Commission repeated its offer to assist Member States to facilitate a smooth transposition of the directive. Considering the resources available, Commission staff is available for discussions with the Member States.
- The Helpdesk is now operational at the following address: info-psihelp@cec.eu.int.

The chairman drew the attention of the group to the EPSINET project (European Public Sector Information Network), an eContent sponsored accompanying measure, which gathers information on PSI activities and promotes its reuse in the Member States. Additional information on EPSINET can be found at <http://www.epsigate.org/>

2. UPDATE BY MEMBER STATES ON THE STATE OF PLAY ON THE TRANSPOSITION OF THE DIRECTIVE

France is continuing to assess the impact of the directive and ways and means of transposition. The issue is treated in the context of a generic information society law presently being discussed by Parliament. This law will pave the way for an implementation by 'decret'. An inter-ministerial working group is evaluating, in particular, how the implementation of the PSI directive will influence the law on access and what effect it might have on local communities.

The issue of state and local communities is also being discussed in **Germany**. The extent to which the directive will affect the PSI policy on the state and the local level, as compared to the federal level, will determine how long it will take to transpose the directive and which measures are finally taken.

Iceland has set up a working group led by the Prime Minister's office. Implementation will be done through changes to, amongst others, the Information Act.

Ireland (*Ministry of finance*) is confident that the directive will be implemented on time, considering that secondary legislation is sufficient. More time might be required to introduce primary legislation. A consultation process will be started shortly, in particular to assess the opportunities for the private sector.

In **Italy** it is still not clear which ministry will be responsible for transposition. At the moment a generic law is in discussion in the Parliament, which will delegate powers to the executive to implement a number of directives. Once the law is adopted, the responsible ministry will be officially appointed.

In **Lithuania** the Ministry of Interior and the Committee for the information society are in charge of the issue. Implementation could be done through the introduction of a special law, or by changes to existing legislation.

Luxembourg reported that access, protection of personal information and re-use will probably be regulated in one core law. Work is in progress and will speed up after the elections.

In **Denmark** existing legislation is in line with the provisions of the PSI directive as far as the exchange of documents between public sector bodies is concerned. This legislation will be updated to accommodate the needs of the private sector. Also the issue of the asset lists is being tackled with an obligation for all public sector bodies to have a register of available documents.

There is at the moment no working group on PSI in the **Czech republic**. It is probable, however, that the provisions of the directive will be implemented through the existing act on access to information.

Austria reported that the directive will be addressed by a law at federal level and possibly by laws in the 9 Länder.

Existing legislation in **Finland** (where the Ministry of Finance is in charge in collaboration with the Ministry of Justice) is considered sufficient. However, practices on charging might be affected. Working seminars on charging policies in the different agencies are under way. The principle of charging is that the data has already been paid for by the taxpayers.

UK is still analyzing different options but trusted that they would be able to present a roadmap early this summer. Their analysis is taking account of the different opinions from the private and the public sector stemming from an online consultation on the implementation of the directive. It was pointed out that there is indeed a lack of economic analysis to support the different policy options available to them.

Sweden did not foresee any legal problems. The issues are more of a practical nature. The Swedish Ministry of Finance is now identifying agencies that are affected by the directive and issues that will require government action. Statskontoret will make an inventory of public information resources and provide a public catalogue of information resources.

Spain (Ministries of Culture, Science and Justice) is still considering different options. Important issues to be considered are the type of legislation and how to deal with the regional level.

The act on access to Information in **Slovenia** does not explicitly allow re-use, nonetheless, public sector information is, as a general rule, freely available. Adaptation of the present law on access to information is being considered.

Slovakia reported that the existing legislation on free access to information is sufficient. Some small changes may be necessary.

A working group is established in **Portugal**. The present law on access to information is not incompatible with the directive, but the implementation will probably require the adoption of another law by Parliament. An interdepartmental working group will make a proposition on how the directive can be implemented, including a proposal for a future re-use and pricing policy.

3. WAYS AND MEANS OF IMPLEMENTING THE DIRECTIVE: MEANS OF REDRESS AND ASSET LISTS.

Mr. Luis Ferrao (INFSO E4) introduced the issue of means of redress by pointing to the different interests involved. UK reported on concerns from the private sector on the means of redress and foresaw, at the moment, a two layer approach. The first level would be applied in simple cases and involve redress by the ministry involved in the primary decision. More complex cases would be solved through a two stage approach where mediation (HMSO) would be followed by a resolution process having judicial power. Slovenia indicated that it has set up a two tier process: in a first phase consensus is sought in an informal procedure. If this does not yield an agreement, then the public sector information Commissioner decides. In one case this has led to the public sector information Commissioner being sued by a public sector body.

Mr. Yvo Volman (INFSO E4) introduced the issue of asset lists and explained the process leading up to the current text through amendments in Parliament. Asset lists are means to obtain transparency and important to enable re-use of public sector information. The requirement to establish asset list goes beyond an obligation to find suitable legal implementation mechanisms since it will necessitate both organisational and practical measures in the member states. The UK and Denmark briefly presented their initiatives in this area.

4. BENCHMARKING AND REVIEW

Mr. Luis Ferrao reported on the benchmarking study that will be performed following a call for tender (closed 15 March). Six quality proposals were submitted and the Commission is now evaluating them, with a view to awarding the contract hopefully by June. The study will take 18 months.

5. POLICIES ON THE RE-USE OF PSI

a) Sweden

Mr. Knut Rexed (Director General of the Swedish Statskontoret) presented the Swedish PSI policy covering all public sector documents. Mr. Rexed explained that a downturn in the Swedish economy in the beginning of the 1990s had led to pricing policies requiring specific agencies to become to a larger degree economically self sustainable. Sweden applies different PSI policies on internal and external re-use. Internally, agencies are called upon to support one another and exchange documents between themselves. Most of these documents are not exchanged electronically as online access is still the exception rather than the rule. The standing agency instruction allows private enterprises to purchase and refine public sector information. Mr. Rexed pointed out the following three areas that are viewed as particularly challenging within the framework of the existing Swedish policy on re-use:

- Some agencies depend on commercial revenues for their activities,
- Some agencies compete with private enterprises, and
- There is an inadequate separation of commercial activities from public governance and public service functions of public agencies operating on a commercial scale.

b) Norway

Mr. Terje Dyrstad (Royal Norwegian Ministry of Labour and Government Administration) presented the Norwegian policy on PSI. All documents can be accessed by the public and generally re-used free of charge (if costs are applied they are limited to the cost of copying), with exceptions on the grounds of privacy, state secrets and so on. Any request to access/re-use documents must be acted upon without delay and any grounds for dismissal shall be stated in the communication to the private party having made the request, also including the available means of redress. The principle that public sector information should be available free of charge, as a general rule, was already suggested by the so-called Pricing Committee in 1994. The principle is applied to all public sector documents with the exception of certain documents and information resources made available for re-use by commercial enterprises. The Norwegian Information policy aims at enabling citizens, businesses and organisations equal opportunities to participate in democratic processes, as well as providing them with information on individual rights and obligations. The goal of the Norwegian Government is to facilitate re-use of

public sector information and apply charging principles beyond the minimum requirements of the PSI directive, thus facilitating wider re-use.

6. POLICIES ON THE RE-USE OF PSI IN THE US

Mr. Peter Weiss from the U.S. National Oceanic and Atmospheric Administration presented the policy on re-use of PSI in the U.S. The U.S government considers government information a valuable national resource and believes that the economic benefits to society are maximized when government information is available in a timely and equitable manner to all. An open and unrestricted policy on access and re-use of public sector information is applied to the federal level of government. Charging is limited to the cost of dissemination. This policy is underpinned by the Copyright Act that excludes public sector information originating from the federal level from copyright protection. Also other legal instruments support this policy, like the Freedom of Information Act. This policy on re-use of public sector information has contributed significantly to the growth of the information industries in the U.S over the last 10 years. Mr. Weiss presented figures showing a U.S information industry based on PSI considerably outnumbering Europe in terms of volume and value of GDP. He believed these differences to be the result of different PSI policies, referring to a number of studies to support his views. He gave examples from the meteorological industry in the U.S and Europe to underpin the application of the U.S model. He concluded that open government information policies foster significant economic benefits to society.

In a reply to this presentation the UK delegation said that the public sector could operate a commercial arm as well as taking care of its public tasks, contrary to the claims of Mr. Weiss. They also questioned some of the revenue figures on their own operations presented by Mr. Weiss.

7. RE-USE OF METEOROLOGICAL INFORMATION HELD BY PUBLIC SECTOR BODIES

a) The view of the public sector: ECOMET

Mr. Rene Hoenson (ECOMET) presented the view of the Public Sector. ECOMET is an umbrella organisation representing the national weather and hydrological organisations from the EU and the EEA. Its members deliver high quality data input needed within the framework of meteorological research and services in Europe and elsewhere. Contrary to the U.S policy, ECOMET believes that the traditional European funding mechanism, mixing private and public funding, leads to higher investment in research and infrastructure, thereby increasing the availability of quality products and services. Mr. Hoenson presented several slides showing the complexity of meteorological services and the data exchange backbone, underpinning ECOMET's role in the meteorological information market. According to ECOMET, the market for meteorological information in Europe has increased: private sector re-users have benefited from increased availability of quality data and reduced prices from ECOMET members. He pointed out that ECOMET and its members are dedicated to achieve greater availability of quality data for re-use within a framework that would not allow cross subsidies. Finally Mr. Hoenson explained that the presence of ECOMET and its policy, which includes free and unrestricted exchange of data and products among the member states, ensures the availability of meteorological information of high quality in Europe.

b) The view of the private sector : PRIMET

Mr. Daniel Sødernan from PRIMET (The Association of Private Meteorological Services) presented the view of the private sector. In his introduction Mr. Sødernan underlined that meteorological information is for many purposes a real time product that quickly loses its commercial value. Massive real time data is produced every day, updated and replaced within 0.5-6 hours and typically used in real time meteorological forecasting. It is then archived for research and development purposes. Mr. Sødernan then focused on the existing ECOMET data policy and practices, pointing out that only some of the ECOMET members follow their own principle of equal treatment of independent service providers, dividing their commercial activities from the public task and keeping analytical accounts to ensure fair competition. In the view of PRIMET current ECOMET data policies reduce the value and significance of European investment in R&D and conflicts with the conditions set out by the Commission in the so called comfort letter of 1999, issued when ECOMET was established. He

presented some figures illustrating that users of meteorological data in Europe are getting most of the data sets from the US rather than Europe due to the European data policy on re-use. Mr. Söderman concluded that introducing an open data policy on meteorological information in Europe would reduce many of the obstacles currently experienced by private sector re-users.

c) *The market view : Meteo Consult*

According to Mr. Harry Otten from Meteo Consult private sector companies in Europe are not given access to meteorological data on conditions equal to the conditions available to competing public sector bodies, for reasons (amongst others) due to historical traditions. Public sector meteorological bodies have been around for 150 years whilst private sector meteorological companies have existed only in the last 20-25 years. In his experience public sector meteorological institutions protect their own interest in upholding a public sector monopoly, leading to the application of high tariffs and practices of cross subsidies. He underpinned his view referring to the actual cost of collecting data with the use of new technology and the costs charged by ECOMET for similar data collections. He criticised the Commission saying that they should do more to challenge some of these practices. The PSI directive is a step in the right direction but it leaves too much room for non implementation of intentions, allowing some of the current practices to continue. Mr. Harry Otten asked the EC to contribute further to the implementation of an open data policy in Europe and to monitor the application of competition law in this sector with greater effort.

In the discussion following the presentations, Mr. Hoenson intervened on the criticism presented by the private sector and suggested that increased communication between the private and the public sector could indeed sort out some of the differences displayed in the meeting. This view was supported by Mr. Söderman (Primet) and the UK delegation who also underlined the need for further detailed discussion on some of the issues.

In relationship to the effects of the PSI directive, the chairman emphasized that re-use policies in Europe are about to change. The PSI directive represents an important step and will contribute to a cultural change within public administrations on how issues of re-use are addressed. Transparency, fair trade and avoidance of cross subsidies are the axis of the PSI directive. He also stressed that the PSI directive allows Member States to go beyond the directive and take other measures that would further stimulate re-use of public sector information.

8. AOB AND WRAP UP BY CHAIRMAN

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