



EUROPEAN COMMISSION

Brussels, 7.9.2012  
C(2012) 6075 final

*Dear President,*

*The Commission would like to thank the Riksdag for its reasoned Opinion on the proposal for a Directive amending Directive 2003/98/EC on the re-use of public sector information (PSI) {COM(2011) 877 final} and apologises for the delay in replying.*

*The Commission welcomes the Riksdag's support for the Commission's aim to facilitate the re-use of PSI and to unlock its full potential.*

*After a thorough examination of the data gathered for the impact assessment of the proposal, the Commission concluded that although Member States have functioning general redress systems, only some have set up specific authorities to hear complaints against public bodies infringing the rules for re-use of PSI. While independent authorities in some Member States are exemplary insofar as redress systems are concerned, re-users from many Member States complain about cumbersome and lengthy proceedings ill suited for dealing with their complaints, which due to the nature of the products and the markets concerned often require swift resolution.*

*The lack of an effective redress mechanism in some Member States (lengthy time to decision, lack of effective competencies of general courts) prevents re-users from enforcing their rights against monopoly suppliers of PSI, leading to inefficiencies on some markets, resulting in negative impacts on competition and innovation and ultimately on consumer welfare.*

*In addition, due to the differences in the judicial systems of individual Member States, the plaintiffs often face significant costs and difficulties in identifying competent courts or authorities and applicable rules of procedure, with negative impacts on the internal market for re-use of PSI.*

*On the basis of these findings, the Commission proposed to include in the amended Directive a requirement for Member States to appoint an independent authority vested with specific powers to oversee the correct application of the charging rules and other principles of the Directive (transparency, non-discrimination).*

*The authority would be a privileged, easily recognisable and accessible venue for a swift resolution of disagreements between re-users and public bodies with respect to re-use*

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*processes and conditions. Its existence would allow bringing the powers between public bodies and re-users in balance.*

*However, the Directive leaves it entirely up to the Member States to set up the independent authority in accordance with its national legal system, including its judicial organisation. Moreover, the Directive does not require the appointment of a new authority. On the contrary, the Commission would encourage Member States to grant appropriate powers to an existing authority, including to a specific court or court chamber.*

*Finally, the provision requiring Member States to appoint an independent authority is not an isolated example of such a provision. For example, the Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (as amended in 2009) requires Member States to allow any user or provider of electronic communications networks or services the right of appeal to an independent appeal body. It also contains a number of detailed requirements relating to the organisation of the National Regulatory Authorities.*

*The Commission remains convinced that the proposal to appoint an independent authority under the PSI Directive does not encroach either on the exclusive constitutional competence of each Member State, or into the organisation of their respective judicial systems.*

*Discussions on the Commission's proposal are ongoing within the ordinary legislative procedure, also on the aspect raised by the Riksdag in its reasoned opinion.*

*I hope that these clarifications have addressed the concerns raised in the opinion of the Riksdag and I look forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*