

Comments on the review of the PSI Directive

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Around the globe, Veolia helps cities and industries to optimise their resources. The company's 163,000 employees provide solutions related to water, energy and materials contributing to the transition towards a circular economy.

Veolia was among the pioneers of connected meters and smart management with the creation of the first hypervision centers in 2015. Veolia's systems enable customers to monitor their water services and energy facilities in near-real time while our connected containers and smart logistic services allow for smarter management of urban waste.

Veolia is thus well placed to help its customers in the public and private sector, as well as citizens, evolve towards digital and data-driven solutions.

Veolia welcomes the European Commission's initiative to "foster transparency, data-based innovation and fair competition" with the review of the Directive on the re-use of public sector information as long as it does not endanger legitimate private interests.

As an operator of services of general economic interest and an active stakeholder in the development of the data-based economy, Veolia would like to provide the Commission with its input on the key subjects addressed in the Commission's consultation.

On the data concerned

While access to data coming from private sector entities and its use by public authorities for reasons of public interest can be justified in some cases, an overly general obligation would cause implementation challenges. One should be careful with the definition of the type of data concerned.

This obligation cannot concern data which could unveil the trade secrets – know-how, market presence or commercial strategies - of private economic operators. Neither can it go against the protection of their intellectual property. Thus, data shared should be limited to raw general data and exclude databases. The opposite could slow down private data based innovation and adversely affect competition.

In addition, there should be a clear definition of the notion of "public interest" opening the right to access and reuse of privately-held data.

For these reasons, sector-specific legislations would facilitate the adoption of the most appropriate levels of obligations and safeguards.

On the practicalities

Veolia agrees that more needs to be done to encourage public sector bodies to provide dynamic data in real time. Technical solutions such as application programming interfaces (API) would facilitate the access to data.

Private operators of public services already generate data for internal performance and/or business development purposes, which is not necessarily the case of public sector bodies. These divergences could lead to asymmetrical situations in terms of quality, quantity and readability of the data. It would weaken the principle of equal treatment between operators, public or private.

Such divergences should be addressed to enable, depending on the targeted sector, the benchmarking of data, regardless of the private or public nature of the service operator. Improving the quality of data would make performance on a set of key performance indicators (KPI) more easily comparable and reliable.

Regarding research documents specifically, one should take into account the value for public research of collaborations with private partners, through transfer of know-how, valorisation of their research, etc. The private entities entering such partnerships naturally incur costs. Access policies should thus take these costs into account.

On contracts and innovation

When providing a service for a public customer, as part of a concession or public-private partnership, the private operator necessarily invests in and uses sensor-equipped machines, tools or devices. In this regard, we notice a growing trend of contractual practices reserving the “ownership” of data or organising its “assignment” to the sole customer.

These contractual practices could give rise to a degree of legal uncertainty regarding the use which can be made of data by the economic operators themselves. Thus, it seems more relevant to define rights of access and use of data, rather than “ownership” of data. The economic operators investing in sensor-equipped machines or softwares should keep the possibility to access and use the data generated by these machines or devices as a kind of legitimate exception. A fair return on the private operator’s investment is paramount to maintain its incentives to propose new services.