Re-use of public sector information

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The Council took note of a **presidency progress report on the work conducted to date** and ministers held a public orientation debate on the proposal to revise directive 2003/98/EC on re-use of public sector information (PSI).

Ministers focused their interventions in particular on the following two questions prepared by the presidency:

- how the single market and the growth agenda could best be stimulated by the PSI directive?
- how the amended directive could encourage a balanced approach to ensuring lower costs for businesses accessing re-usable data while at the same time accommodating the need for public authorities to cover their expenses?

The proposal has been examined in several meetings of the Working Party on Telecommunications and the Information Society. Delegations generally welcomed the proposal and supported its aims. Discussions focused on :

(1) The extension of the scope : several delegations have expressed reservations on the broadening of the scope of the Directive to some cultural institutions. Some delegations said that cultural institutions would not be able to deal with the administrative burden that inclusion would bring. Many delegations stated that there was still internal discussion about the extension of the scope.

(2) The limits and rules for charging marginal costs : many delegations supported the Commission’s proposal that marginal costs should be the general rule, although others had concerns that some public sector bodies would not be able to provide information if they could not sufficiently cover their costs. The Commission argued that a limited charging regime is essential to the proposal in order achieve the large economic potential that this proposal provides.

Many delegations believed that the Commission's proposal should be amended to clarify the limits and rules for charging above marginal costs. Many delegations supported the proposal that where charges exceed marginal costs, they should be set according to “objective, transparent and verifiable criteria”.

In view of the discussions, the Presidency believes that an outcome on this matter may depend on finding the right balance between the general rule on marginal costs and the permitted exceptions for public sector bodies to charge more. In order to provide sufficient clarity for the public, a review of the “objective, transparent and verifiable” criteria by an impartial body may help, although this is still being discussed.

Discussions on other areas of the text were fruitful and progress was made on in particular clarifying the documents available for re-use, available formats, redress procedure, licenses, reporting obligations, interoperability and the rules for exclusive agreements.

On reporting obligations, some delegations stated that the reporting obligations should not place an undue burden on administrations and should not overlap other reporting requirements.

On clarifying the documents available for re-use, certain delegations wanted the public sector bodies to retain the final decision about which documents would be available for re-use. In other cases, some

delegations wanted to exclude certain other document types from re-use, as they felt that not all documents that are accessible are necessarily suitable for re-use. A number of textual amendments have been made to the original Commission’s proposal in order to try and find a compromise on this issue.

The Presidency text now makes clear that an "**impartial body**", rather than a (new) "independent authority", shall review negative decisions regarding the re-use of public sector documents.

Further work on this file will continue under the Cyprus Presidency. The European Parliament's Committee on Industry, Research and Energy vote is scheduled for September 2012.