Information market: re-use and commercial exploitation of public sector documents. 'PSI Directive'

2002/0123(COD) - 26/05/2003 - Council position

The Council adopted by unanimity the common position that largely reflects the main orientations of the Commission proposal. The common position has taken up the following amendments by Parliament, they concern: - further clarifying what types of information are collected by the public sector; - stating that public administrations should promote the re-use of information made available by them; - changing documents 'held by' public service broadcasters which are excluded from the scope of the directive into documents 'within the power of disposal' of public broadcasters; - clarifying that information which constitutes trade or business secrets falls outside the scope of the directive; - the obligation for public sector bodies to provide information on the identity of the third party rightholder. It limits this obligation to cases where the public sector body is able to provide such information; - linking the review of the directive more clearly to its objectives. This is also the aim of the revision of this article by Council. The main points of the common position which differ from the Commission proposal are as follows: - modifying the title of the proposed Directive by deleting the reference to commercial exploitation and this throughout the text of the Directive itself unless needed for specific reference. The Council considered that the term "re-use" covers both commercial and non-commercial exploitation; - specifying the scope of the Directive in that it neither changes the rules for access to documents held by public sector bodies in the Member States, nor affects the protection of individuals with regard to personal data. The Council also considered it appropriate to add wording to explicitly exclude from the Directive's scope documents already excluded from access by virtue of the access regimes in the Member States; - eliminating the definition of 'generally accessible document' since this would cause unnecessary confusion in the Directive, which handles re-use of and not access to documents. This seeks to distinguish the notions of access rights (Member States' competence) and of re-use of documents that are made accessible. On the other hand, the definition of 're-use' has been elaborated in order to avoid ambiguity concerning the exchange of documents between public sector bodies in pursuit of their public tasks; - time-frames concerning the treatment of requests for re-use have been specified where no time-limits or other rules regulating the provision of documents are established in the Member States. To ensure a timely provision of documents, a time-frame of 20 working days is foreseen, extendable by another 20 working days in cases of extensive or complex requests; - concerning charges, the Council has amended the wording. A reference to accounting principles has been added to take into account the public sector bodies' practice of writing off investments over several years. Transparency has been increased by adding wording demanding public sector bodies to indicate not only the applicable conditions and standard charges for re-use but also the factors taken into account in the calculation of charges for atypical cases; - as far as exclusive arrangements are concerned, the Counciladded a new paragraph clarifying the situation concerning existing exclusive arrangements. The new paragraph sets a time-frame for their termination in light of bringing them within the scope and effects of the Directive; - specified the aim of the review of the in order to ensure a full examination of the benefits expected to be achieved by it.