Basic information

2011/0430(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Re-use of public sector information Amending Directive 2003/98/EC 2002/0123(COD) **Subject** 1.10 Fundamental rights in the EU, Charter 1.20.05 Public access to information and documents, administrative practice 2.40 Free movement of services, freedom to provide 2.40.02 Public services, of general interest, universal service 3.30 Information and communications in general 3.30.01 Audiovisual industry and services 3.30.06 Information and communication technologies, digital technologies 3.30.25 International information networks and society, internet 3.50.15 Intellectual property, copyright 4.45.08 Cultural and artistic activities, books and reading, arts 4.45.10 Literary and artistic property	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ITRE Industry, Research and Energy	KALFIN Ivailo (S&D)	27/01/2012
	Shadow rapporteur SEDÓ I ALABART Salvador (PPE) VĂLEAN Adina (ALDE) ANDERSDOTTER Amelia (Verts/ALE) KARIM Sajjad (ECR)	

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	TRZASKOWSKI Rafał (PPE)	29/02/2012
CULT Culture and Education	VERHEYEN Sabine (PPE)	24/01/2012
JURI Legal Affairs	BOULLIER GALLO Marielle (PPE)	19/12/2011

	LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Employment, Social Policy, Health and Consumer Affairs	3247	2013-06-20
Transport, Telecommunications and Energy	3213	2012-12-20
Environment	3171	2012-06-07

European Commission

Commission DG	Commissioner
Communications Networks, Content and Technology	KROES Neelie

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
12/12/2011	Legislative proposal published	COM(2011)0877	Summary
15/12/2011	Committee referral announced in Parliament, 1st reading		
07/06/2012	Debate in Council		Summary
29/11/2012	Vote in committee, 1st reading		
07/12/2012	Committee report tabled for plenary, 1st reading	A7-0404/2012	Summary
20/12/2012	Debate in Council		
13/06/2013	Decision by Parliament, 1st reading	T7-0275/2013	Summary
13/06/2013	Results of vote in Parliament		
13/06/2013	Debate in Parliament		
20/06/2013	Act adopted by Council after Parliament's 1st reading		
26/06/2013	Final act signed		
26/06/2013	End of procedure in Parliament		
27/06/2013	Final act published in Official Journal		

Technical information

Procedure reference	2011/0430(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive

Amendments and repeals	Amending Directive 2003/98/EC 2002/0123(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 114-p1
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/7/08211

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE492.922	18/07/2012	
Committee opinion	CULT	PE487.928	06/09/2012	
Amendments tabled in committee		PE496.525	01/10/2012	
Committee opinion	JURI	PE494.520	11/10/2012	
Committee opinion	IMCO	PE489.694	15/10/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0404/2012	07/12/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0275/2013	13/06/2013	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00018/2013/LEX	26/06/2013	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2011)0877	12/12/2011	Summary
Document attached to the procedure	COM(2011)0882	12/12/2011	Summary
Document attached to the procedure	SEC(2011)1551	12/12/2011	
Document attached to the procedure	SEC(2011)1552	12/12/2011	
Commission response to text adopted in plenary	SP(2013)520	16/07/2013	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary

Contribution	IT_SENATE	COM(2011)0877	31/01/2012	
Contribution	DE_BUNDESRAT	COM(2011)0877	14/02/2012	
Contribution	PT_PARLIAMENT	COM(2011)0877	24/02/2012	
Contribution	PT_PARLIAMENT	COM(2011)0882	11/07/2012	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N7-0121/2012 OJ C 335 01.11.2012, p. 0008	18/04/2012	Summary
CofR	Committee of the Regions: opinion	CDR0626/2012	10/10/2012	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2013/0037
OJ L 175 27.06.2013, p. 0001 Summary

Re-use of public sector information

2011/0430(COD) - 18/04/2012 - Document attached to the procedure

Executive summary of the Opinion of the European Data Protection Supervisor on the 'Open-Data Package' of the European Commission including a proposal for a directive amending Directive 2003/98/EC on reuse of public sector information (PSI), a Communication on Open Data and Commission Decision 2011/833/EU on the reuse of Commission documents.

The EDPS recalls that this proposal for a directive amending Directive 2003/98/EC on reuse of public sector information (PSI) is part of the 'Open-Data Package', which also includes: (i) a Commission Communication entitled 'Open data - An engine for innovation, growth and transparent governance' and (ii) a Commission Decision on the reuse of Commission documents.

The EDPS has not been consulted as required by Article 28(2) of Regulation (EC) No 45/2001. This is regrettable in view of the large amount of personal data potentially concerned by this initiative. This Opinion is therefore based on Article 41(2) of the same Regulation. The EDPS recommends that a reference to this Opinion be included in the preamble of the instrument adopted.

The EDPS notes that the PSI Directive aims at facilitating the reuse of public sector information throughout the EU by harmonising the basic conditions for reuse and removing barriers to reuse in the internal market. He highlights the facts that the proposal specifically requires Member States to ensure that existing documents held by public sector bodies of Member States shall be reusable for commercial and non-commercial purposes.

EDPS recommendations: the reuse of PSI that contains personal data may bring significant benefits, but also entails considerable risks to the protection of personal data. In light of these risks, the EDPS recommends that **the proposal should more clearly define in what situations and subject to what safeguards information containing personal data may be required to be made available for reuse.** In particular, the proposal should:

- establish more clearly the scope of applicability of the PSI Directive to personal data;

- require that **an assessment be carried out by the public sector body concerned** before any PSI containing personal data may be made available for reuse;
- where appropriate, require that **data be fully or partially anonymised** and license conditions specifically prohibit re-identification of individuals and the reuse of personal data for purposes that may individually affect the data subjects;
- require that the terms of the licence to reuse PSI include a **data protection clause**, whenever personal data are processed;
- where necessary considering the risks to the protection of personal data, **require applicants to demonstrate that any risks to the protection of personal data are adequately addressed** (via a data protection impact assessment or otherwise) and that the applicant will process data in compliance with applicable data protection law;
- clarify that **reuse can be made contingent upon the purpose for which reuse is made**, in derogation from the general rule allowing reuse for any commercial and non-commercial purposes.

In addition, the EDPS suggests: (i) allowing costs of pre-processing (such as digitalisation), anonymisation and aggregation to be charged to license-holders where appropriate and (ii) that the Commission develops further guidance, focusing on anonymisation and licensing and consult the Working Party in this regard.

Re-use of public sector information

2011/0430(COD) - 07/12/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Industry, Research and Energy adopted the report by Ivailo KALFIN (S&D, BG) on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/98/EC on re-use of public sector information

The committee recommends that the position of the European Parliament adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Scope: the amendments aim to clarify that the directive does not apply to:

- **documents held by a university library** in which the university holds intellectual property rights;
- documents which are excluded from access by virtue of the access regimes in the Member States, including on the grounds of: (i) the protection of **national security** (i.e. State security), defence, or public security; (ii) statistical or commercial **confidentiality**; (iii) protection of **privacy and personal data**;
- documents held by archives, museums or libraries (including university libraries) of a **particularly sensitive religious nature** or that involve traditional knowledge.

The report states that the directive builds on and is without prejudice to **access regimes in the Member States.** It also stresses that public bodies should ensure that access to and re-use of public sector information comply with Union **data protection** legislation.

General principle: in principle, Member States should ensure that documents of public sector bodies are re-usable, **provided that the documents concerned are of types classified as accessible under the national rules** regarding access to public sector information. Where possible, those documents shall be disseminated in an **open format, machine-readable form.**

The text clarifies that a document is machine-readable if digital documents are structured so that software applications can, in an open format manner, easily and reliably identify, recognize and extract individual statements of fact and their internal structure.

Processing of requests for re-use: Members require public sector bodies to make the document available for re-use, by electronic means where possible or, if a licence is needed, to finalise the licence offer to the applicant **within a period of reasonable time** that is consistent with the time frames laid down for the processing of requests for access to documents.

The means of redress shall include the possibility of review by the **impartial body** in the Member State (and not by an independent authority) that rules on the re-use of public sector information.

Furthermore, if public data made available for re-use concern personal data, it should **be specified under what conditions and subject to which specific data protection safeguards** re-use is permissible, if practicable under a licence.

Charges: the Commission proposal provided that in exceptional cases, in particular where public sector bodies generate a substantial part of their operating costs relating to the performance of their public service tasks from the exploitation of their intellectual property rights, such bodies may be allowed to charge for the re-use of documents over and above the marginal costs, according to objective, transparent and verifiable criteria.

Members consider that **this shall not apply to**: (i) public sector bodies that are required to generate revenue to cover a substantial part of the cost of production, reproduction and dissemination of documents; (ii) libraries (including university libraries), museums and archives.

Those exceptions maybe granted provided it is in the public interest and in accordance with objective, transparent and verifiable criteria.

Practical arrangements: Member States shall make practical arrangements **facilitating the cross- language search for documents** available for re-use. In order to contribute to a consistent implementation of the Directive, the Commission may adopt **guidelines** with a list of recommended datasets available for re-use.

Exclusive rights: where an exclusive right granting preferential commercial exploitation terms is necessary to digitise cultural resources, such preferential exploitation **shall not exceed seven years** in general. Such exclusive arrangements established after the entry into force of this Directive, shall be transparent and made public.

Re-use of public sector information

2011/0430(COD) - 13/06/2013 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 486 votes to 62, with 10 abstentions, a legislative resolution on the proposal for a Directive of the European Parliament and of the Council amending Directive 2003/98/EC on re-use of public sector information.

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between Parliament and Council. They amend the Commission proposal as follows:

Purpose of amending Directive 2003/98/EC: it is specified that the amendments aim to lay down a **clear obligation for Member States to make all documents re-usable** unless access is restricted or excluded under national rules on access to documents and subject to the other exceptions laid down in the Directive.

Scope: the amended text provides that the directive does not apply to:

- documents the supply of which is an **activity falling outside the scope of the public task of the public sector bodies concerned** as defined by law or by other binding rules in the Member State;
- documents which are excluded from access by virtue of the access regimes in the Member States, including on the grounds of: (i) the **protection of national security**, defence, or public security; (ii) **statistical or commercial confidentiality**;
- **documents access to which is restricted** by virtue of the access regimes in the Member States, including cases whereby citizens or companies have to prove a particular interest to obtain access to documents
- documents access to which is excluded or restricted by virtue of the access regimes on the grounds of **protection of personal data.**

The Directive builds on and is without prejudice to access regimes in the Member States.

Processing of request for re-use: in the event of a negative decision, the public sector bodies shall **communicate the grounds for refusal to the applicant** . Where a negative decision concerns documents for which third parties hold intellectual property rights, the public sector body shall include a reference to the natural or legal person who is the rightholder, where known, or alternatively to the licensor from which the public sector body has obtained the relevant material.

Any decision on re-use shall contain a reference to the means of redress in case the applicant wishes to appeal the decision. The means of redress shall include the possibility of review by an **impartial review body** with the appropriate expertise, such as the national competition authority, the national access to documents authority or a national judicial authority.

Available formats: public sector bodies shall make their documents available in any pre-existing format or language, and, where possible and appropriate, in **open and machine-readable format.** Where possible Member States shall facilitate the **cross-linguistic search** for documents.

There is no obligation for public sector bodies to create or adapt documents or provide extracts where this would involve disproportionate effort, going beyond a simple operation. They cannot be required to continue the production and storage of a certain type of documents with a view to the re-use of such documents by a private or public sector organisation.

Charges: where charges are made for the re-use of documents, those **charges shall be limited to the marginal costs** incurred for their reproduction, provision and dissemination.

This **shall not apply to:** (i) public sector bodies that are required to generate revenue to cover a substantial part of their costs relating to the performance of their public tasks; (ii) by way of exception, documents for which the public sector body concerned is required to generate sufficient revenue to cover a substantial part of the costs relating to their collection, production, reproduction and dissemination; (iii) libraries, including university libraries, museums and archives.

The total charges shall be calculated according to **objective, transparent and verifiable criteria** to be laid down by the Member States.

The total income from supplying and allowing re-use of documents over the appropriate accounting period shall not exceed the cost of collection, production, reproduction, dissemination, preservation and rights clearance, together with a reasonable return on investment.

In order to increase **transparency,** any applicable conditions and the actual amount of those charges, including the calculation basis for such charges, shall be pre-established and published, through electronic means where possible and appropriate.

Prohibition of exclusive arrangements: where an exclusive right relates to digitisation of cultural resources, the **period of exclusivity shall in general not exceed 10 years**. In a case where that period exceeds 10 years, its duration shall be subject to review during the 11th year and, if applicable, every seven years thereafter. The arrangements granting exclusive shall be transparent and made public.

Review: the Commission shall carry out a review of the application of this Directive **five years after entry into force** of the latter and shall communicate the results of this review, together with any proposals for modifications of the Directive, to the European Parliament and the Council.

Re-use of public sector information

2011/0430(COD) - 26/06/2013 - Final act

PURPOSE : to facilitate the creation of Union-wide information products and services based on public sector documents, and to ensure the effective cross-border use of public sector documents.

LEGISLATIVE ACTS : Directive 2013/37/EU of the European Parliament and of the Council amending Directive 2003/98/EC on the re-use of public sector information. CONTENT : this Directive amends Directive 2003/89/EC so that it lays down a **clear obligation for Member States to make all documents re-usable** unless access is restricted or excluded under national rules on access to documents and subject to the other exceptions laid down in this Directive. The amendments made by this Directive do not seek to define or to change access regimes in Member States, which remain their responsibility.

Scope : the scope of Directive 2003/98/EC is extended to **libraries, including university libraries, museums and archives.** Wider possibilities for re-using public cultural material should, inter alia, allow Union companies to exploit its potential and contribute to economic growth and job creation.

The amended Directive will apply to documents the supply of which is an activity falling outside the scope of the public task of the public sector bodies concerned as defined by law or by other binding rules in the Member State. It will not apply to :

documents which are excluded from access, including on the grounds of: (i) the protection of national security, defence, or public security ; (ii) statistical confidentiality, or commercial confidentiality;

documents access to which is excluded or restricted by virtue of the access regimes on the **grounds of protection of personal data.**

Treatment of requests for re-use : in the event of a negative decision, the public sector bodies shall communicate the **grounds for refusal** to the applicant. Any decision on re-use shall contain a reference to the means of redress in case the applicant wishes to appeal the decision. The means of redress shall include the possibility of review by an **impartial review body.**

Available formats : documents must be available in any pre-existing format or language, and, where possible and appropriate, in open and machine-readable format together with their metadata. Where possible Member States shall facilitate the cross-linguistic search for documents.

Principles governing charging : where charges are made for the re-use of documents, those **charges shall be limited to the marginal costs** incurred for their reproduction, provision and

dissemination. However, this shall not apply to: (i) public sector bodies that are required to generate revenue to cover a substantial part of their costs relating to the performance of their public tasks; (ii) libraries, including university libraries, museums and archives.

Charges should be set according to **objective**, **transparent and verifiable criteria** and the total income from supplying and allowing re-use of documents shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment.

To ensure transparency, any applicable conditions and the actual amount of those charges,

including the calculation basis for such charges, shall be pre-established and published, through electronic means where possible and appropriate.

Exclusive rights: the directive provides that where an exclusive right relates to digitisation of cultural resources, the period of exclusivity shall in general **not exceed 10 years.** In case where that period exceeds 10 years, its duration shall be subject to review during the 11th year and, if applicable, every seven years thereafter. The arrangements granting exclusive rights

shall be transparent and made public.

Review: the Commission shall carry out a review of the application of the Directive before **18 July 2018** and shall communicate the results of that review, together with any proposals for amendments to this Directive, to the European Parliament and the Council.

ENTRY INTO FORCE : 17/07/2013.

TRANSPOSITION : 18/07/2015.

APPLICATION : from 18/07/2015.

Re-use of public sector information

2011/0430(COD) - 12/12/2011 - Legislative proposal

PURPOSE: to facilitate the creation of Union-wide information products and services based on public sector documents, to ensure the effective cross-border use of public sector documents.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: public sector information is an important primary material for digital content products and services with a large hitherto unexploited potential.

The economic importance of opening data resources, including public data, is now **widely recognised**. A recent study estimates the total market for public sector information in 2008 at € 28 billion across the Union. The same study indicates that the overall economic gains from further opening up public sector information by allowing easy access are around **€40 billion a year for the EU27**. The total direct and indirect economic gains from PSI applications and use across the whole EU27 economy would be in the order of €140 billion annually

Directive 2003/98/EC of the European Parliament and the Council on the re-use of public sector information aims to facilitate the re-use of PSI throughout the Union by harmonising the basic conditions for reuse and removing major barriers to re-use in the internal market.

The **review** was carried out by the Commission and resulted in the publication of Communication COM(2009) 212. It found that, despite the progress made, a number of barriers still persisted namely:

- attempts by public sector bodies to maximise cost recovery, as opposed to benefits for the wider economy, competition between the public and the private sector;
- practical issues hindering re-use, such as the lack of information on available PSI, and the mindset of public sector bodies failing to realise the economic potential.

The Commission concluded that a further review should be carried out by 2012, when more evidence on the impact, effects and application of the Directive would be available. **This proposal of the Commission is the result of the second review**. The review of the Directive thus forms part of the Digital Agenda for Europe and the Europe 2020 strategy aiming for smart, sustainable and inclusive growth.

IMPACT ASSESSMENT: the impact assessment **examined 5 options** to deal with the identified problems, i.e. insufficient clarity and transparency of PSI re-use rules, locked information resources, excessive charges, lack of a level playing field, insufficient enforcement of re-use provisions, and inconsistent approaches adopted by individual Member States.

- ***Option 1: No policy change***: no changes to the Directive (baseline);
- ***Option 2: Discontinuing existing Union action***: repeal of the PSI Directive;
- ***Option 3: Soft law measures*** (e.g. Commission guidelines or recommendations);
- ***Option 4: Legislative amendments*** (amending the substance of the Directive, i.e. the rights and obligations established by its provisions);
- ***Option 5: Packaged solution*** combining substantive changes to the re-use framework (Option 4) with additional guidance on the principles to be applied by national authorities when they implement it at national level (Option 3).

The Commission considers that combining legislative amendments with soft law measures (option 5) **combines the benefits of option 3 and 4**. This will hence ensure the convergence of national re-use friendly regulatory approaches throughout the internal market, thereby enhancing legal certainty, increasing incentives and lowering barriers to PSI re-use.

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the overall aim of this revision is to **eliminate persisting and emerging differences between Member States in the exploitation of public sector information**, which hamper realisation of the full economic potential of this resource.

Specific aims are to facilitate the creation of Union-wide products and services based on PSI, to ensure the effective cross-border use of PSI for value-added products and services, to limit distortions of competition on the Union market, and to prevent the deepening of disparities among Member States in dealing with reuse of PSI.

The content of the proposal corresponds to those aims.

This includes:

- extension of the **scope** of the Directive to currently excluded sectors (cultural, educational and research establishments as well as public service broadcasters);
- establishing a **rule for charging** based on marginal costs, possibly with exceptions;
- amending the general principle to **make accessible documents re-usable**;
- imposing a requirement to publish data in **machine-readable formats**;
- imposing a requirement to appoint an **independent regulator** and to provide for an effective and **efficient redress mechanism**;
- reversing the **burden of proof** of compliance with charging requirements;
- imposing a requirement to define the scope of '**public task**' by legislative means only.

The Commission should assist the Member States in implementing the Directive in a consistent way by giving guidance, particularly on charging and calculation of costs, on recommended licensing conditions and on formats, after consulting interested parties.

BUDGETARY IMPLICATION: there are no implications for the EU budget.

Re-use of public sector information

2011/0430(COD) - 12/12/2011 - Document attached to the procedure

The Commission presented a Communication on **Open data**: an engine for innovation, growth and transparent governance.

Information produced, collected or paid for by public organisations across the European Union is a **key resource in the information economy**. At the moment, its full potential is far from being realised.

However, the existing regulatory tools and their implementation, the lack of awareness of administrations and businesses and the slow uptake of innovative technologies are holding back the development of a true market for the re-use of public data and **do not allow the maximum benefits to be reaped** from the new opportunities that data and evolving technologies offer.

These considerations have led the Commission to **revise and strengthen its public data strategy** by targeting the legal framework for re-use and available support tools.

In this Communication, the Commission proposes concrete steps to unlock the potential of Europe's public sector resources, ranging from a review of the Directive on the re-use of public sector information to the creation of a pan-European portal. This Communication presents a package of measures to overcome existing barriers and fragmentation across the EU, as part of the Digital Agenda for Europe. It consists of three strands that reinforce each other:

Strand 1: Adapting the legal framework for data re-use: (i) a proposal for a revised Directive on the re-use of public sector information and a revised Commission Decision on the re-use of its own information are adopted together with this Communication (December 2011); (ii) work to expand the regime to other European Institutions and Agencies, 2012; (iii) open data to be taken up in sector-based legislative and policy initiatives.

Because of the specificities of research data, the Commission will set out in detail and in separate documents its **strategy for scientific and research data and associated infrastructures**. It intends to adopt in 2012 a Communication and Recommendation on the accessibility and preservation of scientific information.

Strand 2: Mobilising financing instruments in support of open data, and deployment actions such as the creation of European data-portals: the Commission will continue to support R&D in data-handling technologies, e.g. data mining, analytics or visualisation. In the period 2011-2013 the Commission will spend around € 100 million on R&D in these fields. Information management is also one of the priority areas envisaged for ICT in Horizon 2020.

- The Commission will support **technology innovation** and uptake through **pilot actions**, testing and showcasing innovative applications such as geographical information systems and location-based services (GIS) and creative content applications in education, culture or fashion.
- In order to facilitate the development of information products and services combining data from across the European Union, the Commission will work together with Member States, public sector bodies and regional aggregators to establish two **pan-European data portals.** The Portal giving access to Commission data and data from other EU institutions and agencies, spring 2012; launch of a pan-European data portal, giving access to datasets from across the EU, spring 2013, following preparatory work with Member States from 2011.
- **The Commission supports in FP7**, and envisages continued support in Horizon 2020 for the **development of a persistent and robust service infrastructure for scientific data** in Europe that responds to the needs of the data-intensive science and research of 2020. It will allow access to and interaction with a continuum of information, from raw observational and experimental data to publications in all areas of science. The Commission will work together with our **international partners** to develop standards for global data access and interoperability.

Strand 3: Continue facilitating coordination and experience sharing across the Member States, in particular through:

- the PSI group, a Member States' expert group for the exchange of good practices and initiatives supporting public-sector information re-use,
- the Public Sector Information platform. This web portal provides news on European developments, good practices, examples of new products and services, and legal cases concerning PSI re-use,
- the LAPSI network, which analyses legal issues related to public sector information and fosters debate among researchers and stakeholders. It will produce a set of guidelines for access and re-use policies and practices.

The work with the Member States should lead to:

- the formulation and implementation of open public data policies in all Member States by early 2013.
- 1/3 of all available structured government data in the Member States searchable through the pan-European data-portal by 2015.

Overall envisaged impact: by 2017 (three years after the expected transposition date of the Directive on the re-use of public sector information), the overall gains of PSI re-use to reach € 100 billion per year in the EU, including new business development and efficiency gains in public sector services.

Re-use of public sector information

2011/0430(COD) - 07/06/2012

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.