

**MINUTES OF THE
12TH MEETING OF THE PUBLIC SECTOR INFORMATION GROUP
LUXEMBOURG, 12 JUNE 2009**

1. Welcome and introduction by the chairman

The Chairman, Mr Javier Hernández-Ros, Head of Unit Access to Information, welcomed the members of the Public Sector Information (PSI) Group and other participants. Out of 30 participants, 18 came as representatives from the Member States, and the rest were speakers, observers and Commission officials.

He presented the [agenda](#) of the 12th PSI Group meeting and invited the participants to give their comments on it. The first part of the meeting dealt with the Commission's evaluation of the PSI Directive, developments in the Member States, namely France, Sweden, the Netherlands and Spain, and feedback from the private sector. The second part of the meeting focused on the future challenges of the PSI re-use policy in the European Union (EU).

EVALUATION OF THE PSI DIRECTIVE

2. Commission Communication on the review of the PSI Directive

Mr Javier Hernández-Ros first presented the state of play of PSI re-use in the EU and developments in the non-EU countries. He explained that the Commission collected the necessary input for the review of the PSI Directive (the [Communication](#)) through Member States' and stakeholders' consultations, the Micus study on the re-use of PSI in the geographical, meteorological and legal sectors, bilateral discussions with officials from Member States and a series of other meetings, seminars and conferences. The Commission's review confirmed the positive impact of the PSI Directive in different countries and sectors across the EU. In the last part of his presentation he said that if the EU and MS want to realise the full potential of public sector information for the EU economy, Member States must remove remaining barriers to re-use and promote proactive reuse policies: discrimination between potential users, high charges in certain cases for PSI and complex licensing policies. He also highlighted practical problems such as lack of awareness on what PSI is available, public sector bodies failing to realise the economic potential of their data, etc. The private sector has to do its part, show the interest for and the potential of the public sector information re-use and defend their rights coming from the PSI Directive. He concluded his presentation by saying that the Commission will closely monitor implementation and application of the PSI Directive in the Member States, particularly exclusive agreements, and encourage authorities to take measures that facilitate the re-use of PSI.

3. Member States' views

France

The French representative, Ms. Anne Fauconnier from "L'agence du Patrimoine Immatériel de l'État" - [APIE](#), presented the activities under implementation to promote PSI re-use in her country. She said that after putting in place the legal framework through the transposition of the Directive, France conducted several promotional and educational activities, awareness raising campaigns, etc. targeted to both the public and private sector. France has two main bodies which deal with the PSI re-use. "La Commission D'accès aux Documents Administratifs" - [CADA](#), the independent advisory redress body and APIE, the agency designed to manage non-material assets of the state, including public sector information. To promote re-use, France took several practical measures to help content holders and reusers (model licences, users' guide, etc.). They are stepping up their activities by declaring a central portal by the end of 2010 which will represent a single access point to public sector information. Since the transposition of the PSI Directive, France also followed the developments in other countries by participating in meetings, seminars and workshops organised by ePSIplus, OECD, etc. She wrapped up her presentation by saying that France will continue with its efforts to promote re-use which in their opinion is an important contributor to the digital economy.

Spain

The Spanish representative, Ms. Carmen Caridad Alvarez-Cienfuegos Rico, started her presentation by stating that Spain is aware of the importance that re-use has for the digital content industry. She said that the interest in PSI re-use in Spain is relatively recent. Only a year ago there was little knowledge about the concept of re-use in both the public and private sectors. Lack of awareness was not the only obstacle to re-use in Spain, but also inability to identify reusable information, ignorance about the legal framework, etc. Nevertheless, they had a few good experiences of re-use in the public and private sectors. These facts represented a challenge to the Spanish authorities, to raise awareness among all the players from a supply and demand side. To improve the re-use situation in Spain, the Ministry of Industry, Trade and Tourism launched the so called [Aporta project](#) (Reutilizacion de la informacion del Sector Publico), a support programme dedicated to fully to promoting re-use of public sector information. They have recently conducted a study on the current situation in the re-use field with a goal to identify the challenges. On the basis of the collected data from the study, they will prepare an action plan for promotion of PSI re-use. They are organising awareness raising meetings, trainings for public sector officials; they have produced the so called Aporta re-use guide book, awareness and promotional videos and set up the project Website.

The Netherlands

The Dutch representative, Mr. Keuzenkamp Kees, gave an up-date of the situation in the Netherlands. The former situation was more or less a restrictive one that did not support re-use. A new national re-use policy plan was presented to the parliament in 2001. It is based on two main principles: marginal cost policy as a general rule and no restrictions to re-use. He expressed the opinion that an open re-use policy leads to a rise of new added value products and services for customers, rise of the digital content economy and consequently adds to the state budget through taxes. He continued by presenting a recent re-use Court case which involved a private company and the City of Amsterdam. The later possesses a database of contaminated land property which was of interest to the private company. The company was denied access and re-use of the database on the basis of the existing data base protection legislation. The company decided to challenge the City of Amsterdam's decision and took the case to Court. The company won the case and was granted access to data. According to the court ruling public databases funded with public money and related to a public task are not under the (EU-legislation based) data base protection legislation He wrapped up his presentation by presenting a good example of a mobile phone service called Carspotter. The private service combines public and private sector information and gives the users car information on the basis of a car plates.

Sweden

The Swedish representative, Mr. Johnssen Gustaf, started his presentation by saying that the case from his country is particular in many aspects. Sweden has a long tradition of access to and re-use of PSI, nevertheless the Commission has launched [infringement proceedings against Sweden](#) because a number of crucial provisions of the PSI Directive have not been, or have been incorrectly, transposed into national law. He continued by saying that current legislation permits re-use since a long time. However, he highlighted the issue of the public agencies (the content producers and holders) which perform apart from their public tasks also commercial ones and in this way compete with the private sector. He also raised the issue of charges which are according to the private sector too high, while on the other hand some public sector bodies are afraid of losing a part of their financing if the prices for reusable data are lowered. There are around 20 agencies which sell PSI on a non commercial basis. The discussion on the new law has raised the question whether commercial tasks are to be performed at all by the agencies. The current legislation will be changed and "tuned" fully with the PSI Directive. The new public sector information law is expected to enter into force in July 2010. To get the best possible result, they decided to include stakeholders (agencies and re-users) in the drafting process, to some extent.

4. Industry's perspective

The representative from PSI Alliance, Mr. Luigi Perissich, firstly presented his organisation. He then continued with saying that the PSI Alliance welcomes the Commission's review of the PSI Directive being a valuable contribution to the debate on PSI re-use. He attached great importance to the PSI market; nevertheless there are still some barriers which prevent realising fully the economic potential of PSI in the European Union: information too expensive, competition issues, practical issues such as waiting too long for access to reusable information, etc. To argue the latter, he

presented the situation and developments in Italy. He advocated that the market needs clear transparent and equal conditions for re-use, asset lists of reusable information, reasonable time limits to secure access to data, independent regulators and efficient redress mechanisms, marginal cost policy, etc. The PSI Alliance is looking for both a fair and level playing field in the PSI marketplace that would enable re-users to access raw data both at marginal cost and with few restrictions, a more flexible and efficient redress system and a better definition of the "public task". He wrapped up his presentation stating that the PSI Alliance hopes for a new market study on the economic and social value of public sector information and the setting up a "PSI Market Observatory", similar to the "European Union's Single Market Observatory". He said that the PSI Alliance will continue with its efforts for a better re-use market and also called for Commission's help in achieving their objectives.

5. Future challenges

a. Identifying exclusive agreements

Juan Pelegrin from the Commission started his presentation by explaining that article 11 of the PSI Directive states that all exclusive agreements should be terminated at the end of their contract or in any case not later than on 31 December 2008. Exclusive agreements are therefore not any longer legal, except if an exclusive right is necessary for the provision of a service in the public interest (article 11.2 of the PSI Directive). The Commission's Communication on the review of the PSI Directive foresees actions for identifying potential exclusive agreements in the European Union. The Commission's plan is to conduct this exercise in two phases. In the first phase, from 2009 to 2010, the Commission will focus on ten Member States which have the highest re-use potential. In the second phase, from 2010 to 2011, the Commission will focus on a further group of Member States, building on the methodology, results and experience of the first phase. He explained that the necessary data for the study will be collected with the help of local experts, while the Commission will analyse the data, evaluate the appropriateness of the possible exclusive agreements and draft the final report.

Jim Wretham gave a presentation which explained the approach that the UK adopted in identifying exclusive agreements in the UK and why exclusivity was such an important issue. The Chair confirmed that only two member states – the Netherlands and the UK – had undertaken the necessary review. The Netherlands and the UK would therefore be excluded from the Commission led review.

Discussion:

A few member States welcomed the Commission's efforts and said they would be willing to participate in this exercise. Mr Javier Hernández-Ros said that the Commission will prepare an action plan with a timetable to be sent to the Member States concerned by this first exercise.

b. Economic analysis for assessing different charging models/Development of indicators for measuring the PSI re-use

Mr. Michel Vajou from the Groupe Français d'Industrie et de l'Information – GFII gave a presentation on the development of indicators for measuring PSI re-use. First he mentioned a few studies conducted up to now, such as PIRA, MEPSIR, Micus, etc., which in his opinion all failed to identify and produce robust and long lasting indicators for measurements. For these reasons the methodologies used in the past need to be reassessed. He continued with proposing possible indicators which could help measure the subject market: revenues of content producers and holders through data selling and licenses, revenues of re-users, employment in the re-use industry, fiscal revenues, etc. At the end of his presentation he raised the question on how to proceed, and gave a few starting points: limited case study (study for one country only), involvement of Eurostat, convergence with the OECD approach, etc.

Discussion:

During the discussion which followed the presentation, a few participants gave their opinion on the development of indicators for measuring the PSI re-use and the economic analysis for assessing different charging models. The French representative said that it would also be appropriate to look into other possible charging policies, and not focus only in the marginal costs one. The representative from the Netherlands mentioned that a set of indicators for measuring PSI re-use is necessary and that it should also demonstrate its economic and social impact. Mr. Vajou said that there is a long journey in front of us, but strongly supported the representative from the Netherlands. Mr. Javier Hernández-Ros suggested setting up a working group with Member States, public sector bodies and private re-users to address jointly this matter. Representatives from the UK, Denmark, France, Sweden, the Netherlands and Spain signaled their availability and interest in participating in the working groups. The Commission thanked Member States for their commitment and announced that it will develop in a short paper the objectives and working plan for this group; whereas the first meeting should take place in the autumn.

c. Redress mechanisms - Slovenia

Ms. Natasa Brenk, from the Information Commissioner's Office, presented the redress mechanism for re-use cases in Slovenia. She explained that the Slovenian legislation in the field, Access to Public Information Act, provides a three stage legal process. The first stage represents a decision of the public body which was subject of a request for the re-use of PSI. In case of refusal of the request, or if information delivered is not the information requested or if information obtained is not in the requested form, the complainant can take the case to the second stage and file an appeal to the Information Commissioner. After analyzing the matter, the Information Commissioner issues a decision. If the appellant is still not happy with the decision, he can take the case further to the Court of Justice, which represents the last stage of the redress mechanism. She said that the Information Commissioner's office had issued about 15 to 20 re-use decisions in the last four years.

Discussion:

During the discussion that followed, the French representative stated that in France 10% of the appeals to the CADA concern the re-use of PSI. She also mentioned that in France the law provides for sanctions to companies by the CADA for improper re-use.

d. Fair competition/Public task issue

Mr. Luis Ferrão from the Commission gave a presentation on "fair competition" and "public task" issues. He stressed that there is in certain cases a lack of a clear separation line between the public and commercial activities of public sector bodies. Private reusers may find themselves in a position where they have to compete with the public sector bodies - producers and holders of a certain type of PSI. The public task as such is not precisely defined by the PSI Directive. This is left to the Member States which have different traditions. He proposed a number of boundary conditions set by the Directive itself and by European law and case law, with respect to defining public task or approaching concepts. Competing public and private reusers should be subject to equal charges and other conditions for re-using PSI. Separation of accounts for public task and for market activities of public sector bodies would help to achieve the objective of fair competition and avoid cross-subsidies. Re-use of information should be open to all potential actors in the market - public or private - on a non-discriminatory basis.

RECENT DEVELOPMENTS

6. Developments regarding the INSPIRE Directive

Ms. Beatrice Eiselt from EUROSTAT presented the INSPIRE Directive and developments in connection to it. She began by explaining that stakeholders from the geographical and spatial information organisations initiated the need for a common European law regulating the sharing and re-use of GI. The reasons they initiated a common European law were fragmentation, gaps in availability, duplication, data policy restrictions/pricing policies, lack of data harmonisation: standards, etc. She stressed that the essence of INSPIRE is sharing geographical and spatial data between the national public bodies for the purposes of executing public tasks in the field of environment. The Directive components are: metadata (creation is mandatory), data specifications (existing data sets), network services (discovery, view, download, transformation, invoke access via European geo-portal), data and service sharing (policy), monitoring and reporting and coordination at European level. The EU Geoportal will represent a central access point to GI and spatial data. It will provide access to the Member States INSPIRE services and will be operated by the European Commission. The network service will be available to the public and accessible via internet free of charge. She wrapped up her presentation showing the timeline for future activities in the field. The INSPIRE directive does not however deal with the issue of commercial re-use which is fully regulated in the PSI Directive.

7. AOB

The chairman, Mr. Javier Hernández-Ros, thanked the participants for their presence and contributions.

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