European Commission: Proposed Directive on Re-use and Commercial Exploitation of Public Sector Information

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On 5 June 2002, the European Commission presented a proposal for a Directive on the re-use and commercial exploitation of public sector documents. The Commission recognises the development towards an information society in which digital content plays a predominant role. The information collected, processed and distributed by public sector bodies has considerable potential: it has great economic value from which both citizens and businesses can derive much benefit.

The general principle of the proposed Directive is that where public sector bodies allow the re-use of documents that are generally accessible, these documents shall be re-usable for commercial or non-commercial purposes. If and when adopted, the Directive shall apply to all documents ("any content whatever its medium") that are "generally accessible". This means that, for example, documents to which third parties hold intellectual property rights or documents containing personal data, will not be affected by this Directive.

Member States must guarantee transparency and non-discrimination with regard to costs and other conditions for re-use. Additionally, the re-use of information must be open to all potential actors in the market and there will be a prohibition on exclusive arrangements between the public sector bodies holding the documents and third parties, whenever such arrangements would amount to "an unjustified restriction of competition or the re-use of the information". Furthermore, public sector bodies are obliged, where possible and appropriate, to make their documents electronically available in any pre-existing format or language.

Requests to public sector bodies for re-use must be treated within a reasonable time which will be, in case of absence of a specific time-limit, within three weeks. If any charges are exacted, the income from the re-use of these documents shall not exceed the cost of (re)producing or distributing them, together with an acceptable return on investment.

The certainty and transparency which the Directive creates will, in the Commission's opinion, help to make the establishment of European information services based on public sector information possible. Besides that, the Directive will improve an effective cross-border use of public sector information by private

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companies for added-value information products and services and will restrict distortions of competition on the European market.

Proposal for a European Parliament and Council Directive on the re-use and commercial exploitation of public sector documents (presented by the Commission), 5 June 2002, COM (2002) 207 provisional version

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