

**PUBLIC SECTOR INFORMATION IN THE INFORMATION SOCIETY**  
*Consultation process on the Green Paper*

**Answers and comments from the European Internet Industry Association - EIIA**

***Q 1.** Which definition of public sector is the most appropriate in your view?  
What categories of public sector information should be used in the debate?*

**A 1.** The definition given by the WTO (World Trade Organisation) seems suitable. Accordingly, some functionalist approach should also be underlined with respect to the nature of information rather than its source.

***Q 2.** Do different conditions for access to public sector information in the Member States create barriers at European level?  
If so, what elements are concerned: requirement of an interest, exemptions, time, format, quantity? What solutions can be envisaged?*

**A 2.** Different conditions for access to public sector information represent real barriers to commercial re-use in Europe. These barriers are important at the national level as well as at the European level, where divergent national regulation can hamper to the creation of commercial re-use of similar data derived from each member state. Costs and fees of such re-use are widely variable, ranging from free re-use to high level fees and royalties for the same data from different states.

EIIA believes that an inability to effectively re-exploit information initially created for statutory or administrative purposes is a contributory factor in slower growth rates experienced in business-to-business information market growth in Europe. Publishers of directories and company information products, especially in the online era, are frustrated in their attempts to obtain information in a timely or cost effective way.

EIIA believes strongly that information released for commercial re-use provides positive benefits for citizens in Europe where it increases transparency and better supports trading activities within the Union. Exceptions should be kept to a minimum and need to be harmonised among member states. Some exemptions where commercially sensitive information is provided to governments on a commercial-in-confidence basis could also be contemplated. Administrative convenience can never be grounds for the non-release of information, and a refusal to trade should never be a response to a request to a government department for commercial re-use.

***Q 3.** Could the establishment of European meta-data (information on the information that is available) help the European citizens and businesses in finding their way in the public sector information throughout Europe?  
If so, how could this best be realised? What categories of content should directories of public sector information resources contain?*

**A 3.** EIIA regards the creation of metadata at the base level, and descriptive catalogues at an enhanced level as the best way to ensure that industry enterprises can quickly establish availability and the potential for creating new pan-Union services or value-added products. This is particularly important within an Internet based perspective, where portals and generic online services seem to pave the way for enlarged fruition of public information.

**Q 4.** *What bearing do different pricing policies have on the access to and exploitation of public information?  
Does this create differences in opportunities for citizens and businesses at European level?*

**A 4.** EIIA supports competition and market rules when dealing with public sector information. In some circumstances joint ventures between public and private sector bodies to exploit re-use of information resources will be appropriate, only if these are aimed at creating value-added information products. However, such arrangements should never undermine the non-exclusive availability of primary or basic information.

This implies that private sector entities have already invested considerably in database structure and content, and should not be expected to add public sector information to the mix of commercial prices, especially where the wider dissemination of the information concerned supports other policy initiative by government itself.

**Q 5.** *To what extent and under what conditions, could activities of public sector bodies on the information market create unfair competition at European level?*

**A 5.** EIIA strongly encourages compliance with competition issues regarding public sector activities, within the framework of rules established by Articles 85 and 86 of the Treaty. As in the telecommunication sector some ten years ago, Europe must pursue free competition and disruption of monopolies in order to benefit the end-user, the consumer and free entrepreneurship.

**Q 6.** *Do different copyright regimes within Europe represent barriers for exploitation of public sector information?*

**A 6.** EIIA is convinced that different copyright regimes represent a barrier to the exploitation of public sector information in Europe.  
Public domain rights are infinitely variable across the Union, and these in effect form a barrier all of their own.

**Q 7.** *Do privacy considerations deserve specific attentions in relation to the exploitation of public sector information?  
In what way could commercial interests justify access to publicly held personal data?*

**A 7.** Data protection, privacy and commercial confidentiality are clearly issues of importance, but they should not be separately distinguished in this context from their general application in other domains.

Such an important issue also refers to a more general debate over security and privacy over the Internet. EIIA believes that some analysis should be directed towards such implications for the public sector information.

***Q 8.** To what extent are the policies pursued by the EU institution in the field of access and dissemination of information adequate?*

**A 8.** EIIA welcomes EU initiatives such as round tables, public hearings, and green papers. Nevertheless, it should be stressed that only some effective and result-oriented process of mutual understanding of the issues at stake among members states can really help achieve a freer market and more job opportunities in such a sensitive sector.

***Q 9.** To what extent are the policies pursued by the EU institutions in the field of access and dissemination of information adequate?  
In what way can they further be improved?*

**A 9.** EIIA recognises that EU institutions are more advanced in this respect than many member states and applauds this fact. The tendency of the EU and of member states to create data monopolies in privatised, semi-privatised, parastatal or other quasi-governmental information should be deplored. All organisations recognised as capable of information trading, in public or private sectors, should be seen as potentially subject to competition law considerations under Arts. 85 and 86.

***Q 10.** Which actions should be given priority attention at European level?*

**A 10.** EIIA has repeatedly called, since 1996, for a draft directive in this area. However, a Directive will take time to enact. In the meanwhile, EIIA strongly endorses the view that the EU should produce a manual of good practice for use in trading public sector information.