



INTERNATIONAL  
COMMUNICATIONS  
ROUND TABLE

ICRT SECRETARIAT  
RUE D'ARLON 40  
B-1000 BRUSSELS

TEL: +32 2 230 70 20  
FAX: +32 2 230 50 43  
email: [icrt@village.uunet.be](mailto:icrt@village.uunet.be)

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## International Communications Round Table

### **Response to the Green Paper on Public Sector Information in the Information Society – Public Sector Information : a key resource for the Information Society**

#### Summary

The ICRT welcomes and congratulates the European Commission on the publication of the Green Paper on Public Sector Information in the Information Society, and is grateful for the opportunity to comment on it. In our view, this is an excellent document that will maximise the competitiveness of the European online publishing sector.

Recent technological developments have exposed many information bottlenecks created by outdated regulation. The need for reform in the area of public sector information is one important example of such a bottleneck. As the Green Paper confirms, public sector information is the most important potential raw material for the information sector.

The many benefits that easier access to public sector information would bring include the following:

- The European Information Society would be advanced because the on-line availability of government information will encourage individuals and business to move on-line and develop ICT skills.
- Business efficiency and greater competitiveness would result from simpler access to business-relevant public sector information.
- By modernising the output and presentation of their information, governments and other public bodies would themselves enter the Information Age more quickly, to the benefit of all.
- The European online publishing sector would be promoted, thereby creating employment and increasing its international competitiveness.

Discussions relating to public sector information have been continuing for more than ten years. During that time little progress has been made in setting up common rules for trading or commercial exploitation.

It is therefore crucial that, following the publication of the Green Paper, the European Union takes the necessary steps to liberalise this area. If action is not rapidly taken, these industries will further lag behind the United States which has implemented an active public

sector information policy as articulated in the Paperwork Reduction Act (1995) and in the Office of Management and Budget Guidelines.

We acknowledge that the Green Paper has identified the main obstacles to the introduction of a consistent regime for the private sector dissemination of European public sector information. Similarly, we appreciate that it dedicates a special chapter to electronic government. We believe that new technology will facilitate the accessibility and effective distribution of public data. It is time that the skills and resources of the private sector are deployed to produce the efficient dissemination of public sector data in the information age.

Some Member States have already begun to reflect upon this area. The ICRT agrees with the assertion in the Green Paper that “the digitalisation process makes the differences that exist between public sector bodies in Europe more visible and more relevant.” We therefore consider that this is a most opportune time for the Commission to prioritise better access to public sector information, and to move beyond the stage of debate and introduce legislation that will dismantle monopolistic and outdated barriers in this area that impede the competitiveness of European online activities.

## *A definition of public sector*

*“Public data held by a governmental or semi-governmental body which owns, controls or finances it”.*

A consistent definition of public sector information is of the utmost importance as it currently varies from one Member State to another.

This debate has been going on for more than 10 years and there have been several attempts to find a proper definition.

We are of the opinion that a definition based on a methodological approach or a classification according to the type of public sector information is inappropriate.

In our view it is time to adopt a global, simple and non-restrictive definition which can be used in the framework of this debate.

The public sector collects a vast amount of information that will be used more and more by citizens and businesses over the coming years as the Information Society grows. That is the reason why we would suggest that public sector information should be defined according to its source, (i.e. any public body that owns, controls or finances information) irrespective of the interests of the recipient.

In summary, public data should be defined as any data owned by a governmental or semi-governmental, body which holds, controls or finances it.

## *Access*

*Public sector information should be easily available to citizens and business alike.*

As underlined in the Green Paper, electronic government allows conditions of access to be organised more easily.

To maximise the benefits for all of better access to public sector information, we believe that, in principle, such information should be available to citizens and businesses alike.

*This should be facilitated by electronic government.*

There should be as few exemptions as possible, and, where necessary, they should be recorded on a European basis.

*There should be as few exemptions as possible.*

Exemptions regarding the interests and concerns of third parties, and the protection of decision-making processes, should be carefully examined. The data which, by its nature, must be legally published (public register, court decisions, laws, etc.) should neither be included in the scope of exemptions nor benefit from any copyright.

The European Commission should draw up a general framework that relates to the quantity and format of public sector data available to the private sector for redissemination. In doing so, it will be necessary to strike a balance between the needs of citizens and businesses and costly and excessive burdens on the public services. Tailoring raw data to customers' needs may be useful provided it is deemed necessary and does not compete unfairly with what the private sector

is capable of doing; again we reiterate the need for a level playing field in this area.

It is also our opinion that access to raw data must in any case be permitted and the public sector should customise its data only when the private sector cannot do so.

### *Meta data directory*

*Establishment of European meta data could be useful.*

In this context, the establishment of European meta data will be helpful in bring order to access to public sector information. It will require important co-ordination and information exchange at the European level involving both public and private sectors.

(It would perhaps be useful to create a steering committee with a representative of each Member State to implement such co-operation.)

Multimedia products appear to be the most appropriate support to this kind of project.

### *Prices*

*Any pricing regime should be fair, transparent and encompass a level playing field for access to public sector information.*

In keeping with the need for greater transparency at all levels of government and official institutions the pricing regime for access to public sector information should be transparent and fair, especially bearing in mind that public data has already been funded by tax paying businesses and private citizens. Licensing conditions should be readily available and represent a level playing field. We consider the US guidelines that implement the Information Dissemination Provisions of the Paperwork Reduction Act (1995) as representing a useful model that the Commission might choose to follow. These guidelines have had a very positive effect on the data licensing practices of US government departments. A copy of these guidelines is attached.

Price issues are one of the main barriers regarding the access and exploitation of public sector information. They are also an obstacle to the realisation of the internal market unless they reflect the clear and fair pricing regime that we are advocating. Such a regime will boost the online publishing sector within the EU thereby creating employment and increasing the competitiveness of this sector.

In the case of commercial exploitation, prices should only include the technical and maintenance costs of dissemination. These prices could, in certain cases, exceed these costs in the case of special requirements which would not be of benefit to the general public, where costs and workloads are unreasonable.

The price should never be based on usage or the marginal cost of reproduction neither on royalties. Furthermore, it is vital that

governments do not subsidise any dissemination of public sector information by government departments and agencies.

A variety of prices within Member States is not justified and the private sector, especially SMEs, needs comparable cross border information for trade purposes. We recommend that the European Commission set up clear rules and principles as soon as possible in line with the above remarks.

## *Government Competition*

The public sector should recognise the skill and expertise private sector publishers could bring to the dissemination of public sector information, and should particularly avoid duplication of added value products existing on the market.	<p>In terms of competition, guidelines issued by some governments have so far proved to be inefficient. Unfair government competition, including refusal to supply, is a major concern for the private sector and is impeding the successful development of the European content industry.</p> <p>First of all, public bodies should recognise the skill and expertise private sector publishers could bring to the dissemination of public sector information, and should particularly avoid duplicating added value products existing on the market. Similarly they should encourage the creation and diversity of information sources to improve the quality of the products and to enhance the impression of modern government. In licensing the redissemination of public sector information, public institutions should not create monopolistic situations or grant exclusive rights.</p> <p>In keeping with the need for a transparent and fair regime, governments should not cross subsidise the dissemination activities of their administration.</p>
<i>Transparency rules should be established.</i>	<p>Reform in this area will trigger initiatives in the European business industry giving them the same competitive edge as the United States' private sector which does not suffer from restrictive practices and other unfair competition from government and government agencies.</p>

## Copyright

*Public Sector Information is produced at the tax payer's expense : there should not be any copyright that affects redissemination of public data.*

*Codes of conduct for the business industry could preserve the integrity of public sector information.*

Copyright regimes for public sector information differ across Europe, sometimes resulting in monopolistic situations that distort competition.

In our view, public sector information is produced at the tax payers' expense and there should not be any copyright that *inter alia*, limits the dissemination of public data.

The integrity of content must also be maintained and this question has become more complex with the multimedia era. We recommend studying a solution whereby the business industry could agree with public bodies on a code of conduct to preserve the integrity of public sector information content.

However, it should also be recognised that, as the PUBLAW studies confirmed, overall standards of publishing by governments in Europe are poor. Greater involvement of the public sector would improve the quality of the publication of public sector data.

## Privacy

*Privacy considerations deserve special attention.*

*A balance should be struck between the need for open access and the right to privacy.*

Privacy considerations deserve special attention in relation to the exploitation of public sector information.

As mentioned in the Green Paper, a balance should be struck between the need for open access for commercial or other purposes on the one hand, and the right to privacy on the other, especially in the multimedia era.

However it is important to emphasise that some public data is legally published and aimed at informing the citizen and protecting him from risk (e.g. court judgements, public registers...). In the case of direct marketing, an opt-out solution could be provided to protect privacy of the data subject. Codes of conduct that are regulated by the business industry could also be a safeguard against inappropriate usage.

## *Liability*

*Preventive measures will be needed.*

In essence we believe that, as in the US, private sector publishers that are redistributing public sector data under license should not be liable for any harmful content therein.

Preventive measures intended to ensure the security and quality of information would be useful in this area.

## *Conclusion*

*The EU institutions can be viewed as a model but this is not sufficient.*

In recent months, the institutions of the EU have become model licensors of their own databases to private sector publishers. In order to encourage Member States to follow its praiseworthy example, the European Commission might like to consider publishing non-enforceable guidelines for its institutions on the licensing of public sector data.

*Legislative initiative must be a high priority.*

However, this will not resolve the issue in relation to Member States, where the current anti-competitive environment will prevail unless action is taken. Legislative initiative must therefore be a key priority for the European Commission in the coming months.

We congratulate the Commission on recognising the need for reform in this area, and also note the conclusions of several high-profile reports (including the final report of the Commission's own High Level Group on the Social and Economic Implications of Industrial Change) that better access to public sector information is essential for the development of the Information Age in Europe. However, the sooner legislative change can be initiated, the sooner the benefits of the Information Age can be reaped by the European online publishing sector, the strongest in the world.

Modernising access to Public Sector Data is key to creating a modern, open and competitive society, and that must be an aim shared by government, industry and private citizens alike.