

European Commission
Attn. Mr. Huber
Head of Unit DG XIII/E-1
Bâtiment EUROFORUM
Office 1174
Rue Alcide de Gasperi
L-2920 Luxembourg

***Green Paper on Public Sector Information in the
Information Society***

Following the invitation in the green paper on public sector information in the information society (COM(1998)585), the Swedish Direct Marketing Association below provide its views on the questions raised in that Green Paper.

However, before answering these questions, the Association makes the following general remarks.

1. As described in the Green Paper, the accessibility to public sector information for individuals and businesses varies from Member State to Member State. The Association considers it is of great importance that any measures to improve such access to public sector information within the European Union, does not result in any restrictions whatsoever in any of the Member States in the present rights to access such information in each of the Member States.
2. The association is convinced that the US approach to the right to access public sector information is the best way to further the development in general within the European Union. Public sector information is for various reasons of particular importance to SMEs. It is said that the future development of the financial and employment situations of the EU will largely depend on the SMEs. Consequently, all reasonable efforts to assist SMEs should be tried. Facilitating access to public sector information is an

important means to assist the SMEs, especially if it follows the principles employed by the US.

Question 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?

Answer

The Association considers that the state authority and public service tasks are the most distinguishing factors of the public sector. Therefore, the Association is convinced that the *functional approach* is the most appropriate way to define the public sector.

The Association further considers that all information that is contained in the public sector should be deemed to constitute *public sector information*. The Association is of the opinion that this follows logically by the use of the term *public sector*. It is, in the opinion of the Association, another matter whether all public sector information should be available to everybody.

Question 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?

Answer

Yes, the Association believes that different conditions for access to public sector information in the Member States create barriers at European level. All the elements mentioned, requirement of an interest, exemptions, time, format and quantity, may create such barriers. A directive may be required to overcome these barriers.

Question 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?

Answer

The Association agrees to the remarks that it can be difficult to find data in public data bases. Consequently, the Association believes that the establishment of European meta-data would help individuals and businesses in finding their way in public sector information throughout Europe. The Association recommends that it is studied in detail what categories of content directories of public sources information should contain. The Association needs to perform an inquiry among its members to state its opinion about these categories. No such inquiry has yet been made.

Question 4

What bearing do different pricing policies have on the access to and exploitation of public sector information?

Does this create differences in opportunities for citizens and businesses at European level?

Answer

The Association considers that such pricing that is mentioned in the Green Paper in respect German mapinfo and UK mapping base-data definitely constitutes barriers to the availability of the public sector information concerned. Consequently, pricing policies do restrict the availability when they become excessive. Yes, such pricing do create differences in the opportunities for individuals and businesses at European level.

The Association has no objection that a charge is levied on the access to public sector information. However, in the opinion of the Association, such a charge should in principle merely cover the costs of the public sector for the distribution of the information. It should not cover the gathering, storage or the adding of value to the information. Neither should there be any profit margin.

Question 5

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

Answer

The marketing of public sector information by public sector bodies may constitute unfair competition at European level to a considerable extent if such marketing is made on any other basis than what the Association approved of in its answer to question 4 above.

Question 6

Do different copyright regimes within Europe represent barriers for exploitation of public sector information?

Answer

Yes, in the opinion of the Association, different copyright regimes within Europe do represent barriers for exploitation of public sector information. Furthermore, the Association considers that public sector information should not be subject to any restricting copyrights other than in cases where such information already was the subject of any copyright when the information became public sector information.

Question 7

Do privacy considerations deserve specific attention in relation to the exploitation of public sector information?

In what way could commercial interests justify access to publicly held personal data?

Answer

Yes, the Association believes that privacy considerations do deserve specific attention in relation to the exploitation of public sector information. However, the Association also believes that applying the Directives 95/46/EC and 97/66/EC can satisfy such consideration. (It is another matter that the Association believes that these two Directives ought to be

revised.) The right for individuals and businesses to access public sector information would then be governed by legislation issued in conformity with these Directives. Access to sensitive information would be limited as provided by Directive 95/46/EC.

However, in Sweden, much public sector information that is not considered as sensitive by that Directive are nevertheless not made available to individuals and businesses in efficient and effective manners although the technique therefore exist and is at hand. Such information is, on the contrary, blocked. Example of such information include marital status, citizenship, place of birth, and much other information contained in public data bases.

In respect of the question whether commercial interests justify access to publicly held personal data, the Association takes the basic stand that public sector information in principle should be available to everyone unless there are sufficient reasons to declare it secret. Consequently, in the view of the Association this question is put the wrong way. The right way to put this question would be to ask what interests require a certain piece of information to be declared secret.

Question 8

To what extent may the different Member States' liability regimes represent an obstacle to access or exploitation of public sector information?

Answer

The Association believes that the different Member States' liability regimes to a considerable extent represent an obstacle to access or exploitation of public sector information?

Question 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.

Answer

The Association is of the opinion that EU-documents issued by its various institutions and organs should be handed out free

of charge or at least at no higher cost than its technical production cost. The present situation where private businesses distribute EU-documents at market costs are contrary the principles the Associations believes ought to apply to public sector information in the European Union.

The Association would prefer to have to all COM-documents sorted by number, date and topic. Access to these, as to all other documents, should be free of charge on the Internet.

Question 10

Which actions should be given priority attention at European level?

Answer

The Association considers that priority attention at European level should be given firstly to legislation (recommendations, guidelines and binding measures) and secondly to awareness raising at all levels concerning the existing information sources.

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Yours faithfully

SWEDISH DIRECT MARKETING ASSOCIATION

/Hans Wahrolén/