

APPSI Meeting 22nd July 2010

Preparing APPSI position for the forth coming review of The EU Directive 2003/98/EC implementation

1. Introduction

The European Commission (EC) has signalled during June 2010 that the 2012 review of the implementation of the European Union (EU) Directive 2003/98/EC (the Directive) will commence in September 2010 and will run for 18 months. The review will comprise of a number of components that will include consultations (more than one), commissioned studies and surveys and possibly a high-level public conference.

The EC stated at the PSI Group meeting held on 23rd June 2010 (UK was represented by Jim Wretham of The National Archives) that a consultation will be launched during the September 2010 time-frame that will ask a number of specific questions on the scope and effectiveness of the Directive.

During a number of public meetings that focussed on the re-use of public sector information that were held during June 2010 in Madrid and Brussels the EC also reminded all PSI stakeholders that it was important when responding to the 2012 review of the Directive for PSI stakeholders to clearly ascertain the role of the EC (that is what the EC is allowed to do under the EU Treaty articles and pillars) and the role of the Member States. Specific examples were cited – for example the data and information access laws are not part of the EU Treaty – these are a Member State responsibility. The implementation of the PSI re-use framework as set out in the Directive is the responsibility of the EU Member States. The EC is responsible for implementation with respect to European Union institutions. The EC will be looking for evidence from PSI stakeholders that they have considered and raised specific implementation issues that arise within Member States with the respective bodies within the Member State (whether this be at the political, policy, regulation or public sector information holder levels).

If the 2012 review of the Directive 2003/98/EC is to recommend that the Directive should be amended then the co-decision processes will be enacted which involves the Council (Member State Ministers), the European Parliament (elected Member State representatives) and the European Commission. Opinions will also be requested from other EU bodies such as the Committee of the Region's for example (Member State representatives). PSI Stakeholders may request the EC to take forward an action with respect to the Directive but the question will arise (via impact assessments for example) on whether EU Member States are likely to agree to a change of the Directive 2003/98/EC. In other words has the Member State position changed since the co-decision process back in 2002/2003? Part of the answer to this question will be based on the evidence provided by PSI stakeholders during the 2012 review process.

APPSI took part in the 2008 review of the Directive and one would expect APPSI to participate in the 2012 review. The purpose of this paper is to propose that APPSI commences the process by examining the UK position against the EC May 2009 Communication¹ on the Directive in preparation for the 2012 review by including a standing item on the APPSI agenda – time allocation to be sufficient to do justice to the topic.

2. The EC Communication 7th May 2009

(Extract from page 10)

Summary of key points for action

Member States:

- Ensure *full and correct implementation and application* of the Directive
- *Terminate exclusive arrangements* as prescribed by the Directive
- *Apply licensing and charging models that facilitate* the re-use of PSI

¹ Brussels, 7.5.2009. COM(2009) 212 final. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Re-use of Public Sector Information – Review of Directive 2003/98/EC – [SEC(2009) 597]

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- *Ensure fair competition* between public sector bodies and re-users

In addition, Member States are encouraged to promote the identification and ready availability of information resources and to set up *quick and inexpensive conflict resolution mechanisms*.

Commission:

- *Closely monitor* implementation and application of the Directive
- Scrutinise *exclusive arrangements* (2009-10) in particular
- *Analyse the economic case for marginal costs*
- Encourage *exchange of good practices (proactive re-use policies, public tasks, conflict resolution)*
- *Further review by 2012*, accompanied where appropriate by a proposal for amendments to the Directive

3. Committee of Regions Opinion 10th February 2010

The Committee of the Regions opinion on the review of the Directive was published in the Official Journal of the EU on the 1st July 2010.²

4. The Digital Agenda for Europe – 19th May 2010

The European Commission published on the 19th May 2010 the Communication titled: *The Digital Agenda for Europe*.³

5. Recommendation

For the 22nd July 2010 meeting APPSI considers:

1. The process by which APPSI shall prepare and participate in the forth-coming review of the Directive.
2. The following action (highlighted in bold):

*In addition, Member States are encouraged to promote the identification and ready availability of information resources and to set up **quick and inexpensive conflict resolution mechanisms**.*

In response to point 1 – Is APPSI aware of which Departments and bodies would participate in a review of the Directive? Should APPSI invite the respective bodies/people to an APPSI meeting? Should APPSI hold a public meeting on the subject to invite input?

In response to point 2 - questions to be briefly debated:

Is the UK implementation (SI 1515 of 2005) after 5 years proving to be?

Clear and transparent?

Quick?

Inexpensive?

Effective?

What hard evidence does APPSI have for its response to the questions?

What action has APPSI taken to address any limitations on the conflict resolution mechanisms?

² 1.7.2010 EN Official Journal of the European Union C 175/35. Opinion of the Committee of the Regions on the Internet of Things and reuse of Public Sector Information. (2010/C 175/09)

³ Brussels, 19.05.2010. COM(2010) 245. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS - A Digital Agenda for Europe