

Opinion of the Committee of the Regions on:

- the ‘Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions eEurope 2002: creating a EU framework for the exploitation of public sector information’, and
- the ‘Proposal for a Directive of the European Parliament and of the Council on the re-use and commercial exploitation of public sector documents’

(2003/C 73/10)

THE COMMITTEE OF THE REGIONS,

having regard to the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — eEurope 2002: creating a EU framework for the exploitation of public sector information (COM(2001) 607 final) and the Proposal for a Directive of the European Parliament and of the Council on the re-use and commercial exploitation of public sector documents (COM(2002) 207 final — 2002/0123 (COD));

having regard to the decision of the Council of 24 July 2002, under the first paragraph of Article 265 of the Treaty establishing the European Community, to consult the Committee on this matter;

having regard to its Bureau's decision of 12 March 2002 to instruct the Commission for Culture and Education to draw up an opinion on the matter;

having regard to the Green Paper on Public sector information: a key resource for Europe (COM(98) 585 final);

having regard to its opinion (CdR 190/1999 fin)⁽¹⁾ on Public sector information: a key resource for Europe — Green Paper on public sector information in the information society (COM(98) 585 final);

having regard to the eEurope 2002 Draft Action Plan: An Information Society for All (COM(2000) 330 final);

having regard to the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — The Introduction of Third Generation Mobile Communications in the European Union: State of Play and the Way Forward (COM(2001) 141 final);

having regard to the multiannual Community programme to stimulate the development and use of European digital content on the global networks and to promote linguistic diversity in the information society eContent (Council Decision 2001/48/EC of 22 December 2000)⁽²⁾;

having regard to the Directive of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society (2001/29/EC);

having regard to the Directive of the European Parliament and of the Council on the legal protection of databases (96/9/EC);

having regard to the study for the European Commission on commercial exploitation of public sector information (October 2000) drawn up by Pira International;

having regard to its draft opinion (CdR 134/2002 rev.) adopted on 30 September 2002 by the CoR Commission for Culture and Education [rapporteur: Ms Adela María Barrero Flórez, Director General of European Affairs, Government of the Principality of Asturias (E/PES)],

adopted the following opinion at its 47th plenary session of 20 and 21 November 2002 (meeting of 21 November).

⁽¹⁾ OJ C 57, 29.2.2000, p.11.

⁽²⁾ OJ L 14, 18.1.2001.

1. The Committee of the Regions' views

The Committee of the Regions' underlines

1.1. the huge benefits that the development of the information and knowledge society has on the quality of life of citizens, the competitiveness of companies, job creation and the quality of public services;

1.2. the predominant role that the exploitation and re-use of information plays in developing the so-called information and knowledge society;

1.3. the great economic and, therefore, job-creation potential of the invaluable information that the public sector creates, compiles and exploits and which forms an essential basis for many digital information products in the content sector and an important raw material for new added-value services, in both the private and public sector, which use various channels including the wireless internet;

1.4. that local and regional authorities are among the main producers, compilers, owners and suppliers of public sector information and therefore place great importance on a proper and extensive compilation and exploitation of such information;

1.5. the at present limited possibilities for exploiting public sector information in Europe owing, to a large extent, to the lack of clear and consistent rules and practices governing this area throughout the European Union, and insufficient information in the public sector itself;

1.6. the general uncertainty about the conditions for using and exploiting public sector information in the European Union which, to a large extent, prevents companies in the content sector from carrying out cross-border exploitation of such information;

1.7. the importance for local and regional authorities of disseminating and re-using generally accessible information in order to exercise more effectively their public task as the political representatives closest to citizens, organisations and companies;

1.8. the different cultural and administrative traditions between Member States and between local and regional bodies regarding the collection and organisation of public sector information and the fact that, at all events, the issue of access to public sector information is a national, regional and local competence;

1.9. the huge impact on the economic and social development of contemporary society of a more efficient and extensive use and exploitation of public sector information by the public sector as well as by citizens, companies and organisations;

1.10. the importance of and need for common rules and practices governing the re-use and exploitation of public sector information to ensure that the same basic conditions are applied to all players in the European information market, conditions for re-using such information are more transparent, and distortions of the internal market are eliminated;

1.11. that the documents discussed in the draft Directive are part of a package of political measures being developed in connection with the establishment of a minimum set of common rules governing the commercial and non-commercial exploitation of public sector information in the Member States.

2. The Committee of the Regions' recommendations

The Committee of the Regions

2.1. agrees with the Communication that improved use of public sector information could turn this resource into a valuable asset for citizens, businesses and administrations, who can greatly benefit from a good provision of public sector information on the Internet;

2.2. shares the Commission's belief that public sector information has a considerable economic potential as it is an essential basis for many digital information products and could become an important raw material for new services and in particular for the wireless internet;

2.3. agrees with the draft Directive that a minimum harmonisation of the rules and practices of the Member States on the re-use of public sector information will help create better conditions for the exploitation of such information. This in turn will considerably boost economic activity and job creation, and lead to a better use of this information, bringing other benefits for citizens in the form of a range of added-value information products that the public sector itself cannot provide;

2.4. welcomes the fact that the Directive limits itself to the minimum harmonisation needed to give market players legal certainty and transparency, thereby helping to ease or overcome the main barriers for industry, gives the Member States a sufficient margin for manoeuvre with regard to its implementation and, as a general principle, allows each public sector body to decide whether or not to allow the re-use of general information;

2.5. regrets the title of the proposed Directive because, as is clear from the title of the Communication, it is the exploitation of public sector information and not the exploitation of public sector documents that needs regulating, the latter already being covered by the legislation of some Member States;

2.6. considers that both the scope of the Directive and the possible grounds for exclusion from it should refer not only to information contained in documents held by public sector bodies but also to documents produced by them;

2.7. also believes that, in line with the Directive's aim and scope, the definition of 're-use' found in the proposed Directive should include the 'exploitation' as well as the 'use' of public sector information;

2.8. welcomes the fact that the Directive's scope respects the rules established in the Member States for defining generally accessible documents and, at all events, safeguards the protection of privacy and the intellectual property rights of third parties;

2.9. believes that the definition of 'document' should be clarified so that the differences in terms of, inter alia, data security between the release of a single document and the release of a block of documents would be taken into account;

2.10. believes that the scope of the draft Directive should exclude not only the types of public sector information listed but also documents produced or held by the political bodies of public administrations that must be excluded according to national legislation;

2.11. supports the re-use of generally accessible public sector information for both commercial and non-commercial purposes, and welcomes the fact that the proposed Directive attempts to reduce to a minimum the additional administrative burden that making such information available may place on public bodies;

2.12. considers that the Directive should set out requirements for the use of public sector information by commercial companies. For commercial companies, this could mean, among other things, a requirement to preserve the quality of public sector information and to ensure that it is up-to-date, that is used correctly, and is not open to misinterpretation. The information must retain its authenticity and the source be properly acknowledged;

2.13. believes that, as part of the experimentation and dialogue actions proposed by the Commission, priority should

be given to supporting and fostering experimentation, at all levels of the public sector, regarding the standardisation of electronic formats and metadata structures, as these issues have a huge practical impact for information available in electronic format and could avoid the need to provide such information in all pre-existing formats;

2.14. agrees with the principles for charging laid down in the proposed Directive as they entitle public bodies, whenever they deem it necessary or appropriate, to recover the cost of producing, reproducing and disseminating information through the charge for re-using it but, given that this concerns generally accessible information of public sector bodies, considers it inappropriate for the charging principles to include a profit margin;

is also concerned about the potential economic value on the market of products which are obtained through the exploitation of public sector information by the private sector and may significantly reduce its general use;

2.15. agrees with the proposed Directive on the general need to prevent conduct that may constitute an abuse of a dominant position and welcomes the fact that exclusive arrangements for the exploitation of public sector information may be allowed in some specific cases when such arrangements are needed to safeguard the provision of services of general interest;

2.16. is concerned that the proposed Directive's failure to consider transitional provisions or periods may affect conventions or contracts for the re-use or exploitation of information that have been concluded between public bodies and private companies and are in force at the time of entry into force of the draft Directive;

2.17. proposes defining objective indicators so that the Directive's global impact can be properly analyzed in the reviews to be carried out following its entry into force;

2.18. welcomes the establishment of a Group to Promote Digital Public Data that will act as a coordination platform and sounding board and, in order to highlight the importance of giving consideration to interested decentralised bodies when applying the open method of coordination, insists that local and regional authorities participate in this Group.

Brussels, 21 November 2002.

*The President
of the Committee of the Regions*
Albert BORE