

## From the Public Sector Information (PSI) Directive to the Open Data Directive

The reuse of open data can help grow the European economy, develop artificial intelligence and aid work to overcome societal challenges.



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The EU open data market is a key building block of the overall EU data economy. The total direct economic value of PSI is expected to increase from a baseline of €52 billion in 2018 for the EU countries and the UK, to €194 billion in 2030.

The European Commission adopted a proposal for a revision of the PSI Directive (Directive 2013/37/EU) in April 2018. The proposal was presented as part of a package of measures aiming to facilitate the creation of a common data space in the EU. This review also fulfils the revision obligation set out in Article 13 of the Directive.

The proposal for a revision of the Directive was the result of an extensive public consultation process, an evaluation of the current PSI Directive and an impact assessment. This proposal received a positive opinion from the Regulatory Scrutiny Board.

## **The context of the recast: barriers to overcome**

The proposal aimed to overcome the barriers that still prevent the full re-use of public sector information, which according to the impact assessment included the following:

- Data generated by the utilities and transport sectors has tremendous reuse potential. Yet, entities active in these sectors are not covered by the PSI Directive, although many of them are fully or partly funded by public money. The same is true for research data resulting from public funding.
- Dynamic data is one of the most commercially valuable types of data, as it can be used for products and services that provide information in real time, such as travel or transport apps. However, the provision of real-time access to dynamic data held by public sector bodies, for example using application programming interfaces (APIs), is rare.
- Several public sector bodies continue to charge well above what is needed to cover reproduction and dissemination costs for the re-use of public sector data. Such charges constitute a market barrier for small and medium-sized enterprises (SMEs). Getting rid of charges typically results in a surge in demand for public sector data, which translates into more innovation, more business growth and, ultimately, higher budget revenues (via taxes) for the public sector.
- Public data holders sometimes enter into arrangements with the private sector to derive extra value from their data. This creates the risk of lock-in of public sector data, benefiting large companies and thereby limiting the number of potential re-users of the data in question.

## **Objectives of the recast**

In respect of the continued existence of these barriers, the changes proposed aimed to:

- reduce market entry barriers, in particular for SMEs, by limiting the exceptions that allow public bodies to charge for the re-use of their data more than the marginal costs of dissemination;
- increase the availability of data by bringing new types of public and publicly funded data into the scope of the Directive, such as data held by public undertakings in the utilities and transport sectors and research data resulting from public funding;
- minimise the risk of excessive first-mover advantage, which benefits large companies and thereby limits the number of potential re-users of the data in question, by requiring a more transparent process for the establishment of public-private data arrangements;
- increase business opportunities by encouraging the dissemination of dynamic data via application programming interfaces (APIs).

## **The Directive on open data and the re-use of public sector information**

The new Directive (Directive (EU) 2019/1024) supersedes the rules introduced by the PSI Directive. It addresses barriers to the re-use of publicly funded information across the EU and brings the legislation up to date with the advances in digital technologies.

Minimum harmonisation of national rules and practices on the re-use of publicly funded information should contribute to the smooth functioning of the internal market and the proper development of the information society in the EU.

Under the new rules:

- All public sector content that can be accessed under national access to documents rules is in principle freely available for reuse. With this Directive, public sector bodies are not be able to charge more than the marginal cost for the reuse of their data, except in very limited cases. This will allow more SMEs and startups to enter new markets in providing data-based products and services.
- A particular focus is placed on high-value datasets such as statistics or geospatial data. These datasets have high commercial potential, and can speed up the emergence of a wide variety of value-added information products and services. The Commission is now working together with EU countries to define the list of specific high-value datasets that can be made available for free and easily re-usable across the entire EU.
- Public undertakings in the transport and utilities sector generate valuable data when providing services in the general interest that will enter into the scope of the Open Data and Public Sector Information Directive. Once the public undertakings make such data available, they will have to comply with the principles of transparency, non-discrimination and non-exclusivity set out in the Directive and ensure the use of appropriate data formats and dissemination methods. They will still be able to set reasonable charges to recover the costs of producing the data and of making it available for re-use.
- Some public bodies strike complex data deals with private companies, which can potentially lead to public sector information being 'locked in'. Safeguards are put in place to reinforce transparency and to limit the conclusion of agreements which could lead to exclusive re-use of public sector data by private partners.
- More real-time data, available via APIs can allow companies, especially startups, to develop innovative products and services, such as mobility apps. Publicly-funded research data is also being brought into the scope of the directive: EU countries are required to develop policies for open access to publicly funded research data while harmonised rules on re-use will be applied to all publicly-funded research data, which is made accessible via repositories.

## **Towards a list of high-value datasets**

The Directive introduces the concept of high value datasets, defined as documents whose re-use is associated with important benefits for the society and economy. They are subject to a separate set of rules ensuring their availability free of charge, in machine readable formats, provided via APIs and, where relevant, as bulk downloads. The thematic scope of high-value datasets is provided in an Annex to the Directive.

The thematic categories of high-value datasets, as referred to in Article 13(1) of the Directive, are:

1. geospatial
2. earth observation and environment
3. meteorological
4. statistics
5. companies and company ownership
6. mobility

Within these limits, and with the assistance of a Committee on open data and the re-use of public sector information composed of representatives of EU countries, the Commission will adopt in 2021 a list of specific high value datasets by way of an implementing act, following an impact assessment.

More information about the Committee on open data and the re-use of public sector information (Code: C51600) is available in the comitology register.

A European Strategy for data

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## Latest

PRESS RELEASE | 16 July 2021

New rules on Open data and reuse of public sector information start to apply

Tomorrow, 17 July 2021, will mark the deadline for Member States to transpose the revised Directive on open data and reuse of public sector information into national law. The updated rules

will stimulate the development of innovative solutions such as mobility apps, increase transparency by opening the access to publicly funded research data, and support new technologies, including artificial intelligence.

PRESS RELEASE | 03 June 2021

Commission seeks views on data sharing

The European Commission has launched an open public consultation on the announced Data Act aiming to create a fair data economy by ensuring access to and use of data. The consultation seeks to gather views from citizens, businesses, online platforms, academics, civil society, administrations and all interested parties. It is open until 3 September.

PRESS RELEASE | 23 January 2019

EU negotiators agree on new rules for sharing of public sector data

Negotiators from the European Parliament, the Council of the EU and the Commission have reached an agreement on a revised directive that will facilitate the availability and re-use of public sector data.

PRESS RELEASE | 04 October 2018

Joint statement by Vice-President Ansip and Commissioner Gabriel on the European Parliament's vote on the new EU rules facilitating the free flow of non-personal data

The European Parliament has adopted a Regulation on the free flow of non-personal data proposed by the European Commission in September 2017. Vice-President for the Digital Single Market Andrus Ansip and Commissioner for Digital Economy and Society Mariya Gabriel welcomed the outcome in a joint statement.

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## **Related Content**

### **Big Picture**

Open data

The European Commission's policies focus on generating value for the economy and society through the reuse of public sector information.

### **See Also**

Open data portals



Open data portals facilitate access to and reuse of public sector information. They can help encourage cross-border use of reusable data in Europe.

Non-legislative measures to facilitate reuse

The European Commission works to overcome the barriers limiting the reuse of public sector information through non-legislative measures.

Implementation of the Public Sector Information Directive

The Commission has created a detailed list on how different countries have implemented the Public Sector Information (PSI) directive

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