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Committee on Culture and Education

2011/0430(COD)

17.7.2012

OPINION

of the Committee on Culture and Education

for the Committee on Industry, Research and Energy

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/98/EC on re-use of public sector information (COM(2011)0877 – C7-0502/2011 – 2011/0430(COD))

Rapporteur: Sabine Verheyen

PA_Legam

SHORT JUSTIFICATION

The proposal for a directive initiates a paradigm shift towards a policy of ‘open access’ to public data in the digital era. The basic idea is that the public has a right to information which has been gathered on behalf of the public authorities using tax revenue.

The rapporteur welcomes steps which can promote permanent open access to cultural information, and supports efforts to accelerate the digitisation of European cultural collections. She is aware of the economic and social importance of public data and their digital availability.

The digitisation of cultural collections will make the European cultural heritage more accessible for all citizens. The rapporteur therefore welcomes an extension of the scope of such action to include libraries (including university libraries), museums and archives. Public-sector information has an enormous economic, social and innovative potential. It is to be anticipated that the creative and cultural industries, in particular, will benefit from an extension of the scope.

In order to make optimal use of the opportunities available, the rapporteur considers that improvements should be made on certain points, as the proposal for a directive could adversely affect the financial situation and digitisation efforts in the public sector (relating to culture).

- **Autonomy of decision-making by public sector bodies:** National (or local) decision-makers must retain the power to decide for themselves on the use of their information and be able to cover a large part of the costs which they have incurred in carrying out their public remit. The rapporteur considers that it should remain possible to exclude certain documents from re-use, e.g. because of the frequently uncontrolled collection of raw data which can only be re-used after further processing.
- **Interoperability:** The rapporteur agrees with the Commission that only data and metadata which already exist in digital form should be made available in the standard data formats in a machine-readable, technology-neutral manner, in order to guarantee the interoperability of data
- **Establishment of an independent authority and reversal of the burden of proof:** The call for an independent authority with special regulatory powers to be established is contrary to the efforts of the Member States to reduce bureaucracy and consolidate budgets. Compulsory reporting and a reversal of the burden of proof that charges are compliant would compel public administrations to incur disproportionate additional costs. The rapporteur proposes leaving it to Member States to decide which national body they should make responsible for supervising the correct implementation of the directive. Applicants should retain the right to bring legal proceedings if an objection procedure is unsuccessful.
- **Charges and criteria for setting them:** The rapporteur would point out that libraries (including university libraries), museums and archives whose legal form is public or which are publicly administered often have to finance their own operation to varying

extents. Moreover, the current costs of long-term archiving of digital data are very high. The Directive should therefore introduce appropriate charging principles, which make it possible to levy charges that cover costs in full when information is re-used, in order to internalise the extra costs involved in passing on the data. Otherwise there is a danger that the quality of public-sector information will suffer and that the capacity for investment in this field will be reduced. In addition, digitisation for commercial purposes would ultimately occur purely at the expense of public establishments, with adverse consequences for digitisation projects.

- **Exclusivity agreements:** as regards the description, digitisation and presentation of cultural collections, there are numerous cooperation arrangements between libraries (including university libraries), museums, archives and private partners which involve public sector bodies granting exclusive rights of access and commercial exploitation to cooperation partners. Practice has shown that these public-private partnerships facilitate worthwhile use and rapid accessing of cultural collections. For mass digitisation projects in which private partners incur substantial financial costs, it is necessary to grant exclusive rights in order to carry out a project which is in the public interest. The rapporteur therefore believes that Directive 2003/98/EC should not preclude the granting of exclusive rights but limit agreements on the subject to a term of seven years.

AMENDMENTS

The Committee on Culture and Education calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Open data policies which encourage the wide availability and re-use of public sector information for private or commercial purposes, with minimal or no legal, technical or financial constraints, can play an important role in kick-starting the development of new services based on novel ways to combine and make use of such information. However, this requires a level playing field at Union level in terms of whether or not the re-use of documents is authorised, which cannot be achieved by

Amendment

(2) Open data policies which encourage the wide availability and re-use of public sector information for private or commercial purposes, with minimal or no legal, technical or financial constraints, ***and which promote the circulation of information not only for economic operators but also for members of the public and the free movement of persons within the Union, with due regard for fundamental rights in every case,*** can play an important role in kick-starting the

leaving it up to the different rules and practices of the Member States or the public bodies concerned.

development of new services based on novel ways to combine and make use of such information. However, this requires a level playing field at Union level in terms of whether or not the re-use of documents is authorised, which cannot be achieved by leaving it up to the different rules and practices of the Member States or the public bodies concerned.

Amendment 2

Proposal for a directive Recital 6

Text proposed by the Commission

(6) Directive 2003/98/EC does not contain an obligation to allow re-use of documents. The decision whether or not to authorise re-use remains with the Member States or the public sector body concerned. At the same time, the Directive builds on national rules on access to documents. Some Member States have expressly linked the right of re-use to this right of access, *so that all generally accessible documents are re-usable. In other Member States, the link between the two sets of rules is less clear and this is a source of legal uncertainty.*

Amendment

(6) Directive 2003/98/EC does not contain an obligation *for Member States* to allow *access to, and* re-use of, *public-sector* documents. The decision whether or not to authorise re-use remains with the Member States or the public sector body concerned. *The Directive only harmonises the conditions subject to which documents are made available for re-use.* At the same time, the Directive builds on national rules on access to documents. Some Member States have expressly linked the right of re-use to this right of access, *whereas* other Member States *have legally separated the right of re-use from national rules on access to information and freedom of information.*

Amendment 3

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Member States' arrangements for access to public-sector documents are based on transparency and freedom of information. In some cases, however, this

right is restricted, for example to those who have a particular interest in these documents or in cases in which the documents contain sensitive information relating, for example, to national or public security.

Amendment 4

Proposal for a directive Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Directive 2003/98/EC does not contain an obligation for Member States to digitise analogue material which they have available, or to make it machine-readable in a technologically neutral manner. Public sector bodies may themselves decide what data are to be digitised when and under what conditions.

Amendment 5

Proposal for a directive Recital 6 c (new)

Text proposed by the Commission

Amendment

(6c) Directive 2003/98/EC applies to documents the supply of which forms part of the public task of the public-sector bodies concerned, as defined by law or by other binding rules in the Member State in question. It should be possible for this public task to be defined for the bodies concerned either in general or from case to case.

Amendment 6

Proposal for a directive Recital 7

Text proposed by the Commission

(7) Directive 2003/98/EC **should therefore lay down a clear obligation for Member States to make all generally available documents re-usable. As it constitutes a limitation to** the intellectual property rights *held* by the authors of the documents, the scope of such a link between the right of access and the right of use should be narrowed to what is strictly necessary to reach the objectives pursued by its introduction. In this respect, taking into account the Union legislation and Member States' and Union's international obligations, notably under the Berne Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), documents on which third parties hold intellectual property rights should be excluded from the scope of Directive 2003/98/EC. If a third party was the initial owner of a document held by libraries (including university libraries), museums and archives that is still protected by intellectual property rights, that document should, for the purpose of this Directive, be considered as a document for which third parties hold intellectual property rights.

Amendment 7

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7) Directive 2003/98/EC **limits** the intellectual property rights *held* by the authors of the documents. The scope of such a link between the right of access and the right of use should **therefore** be narrowed to what is strictly necessary to reach the objectives pursued by its introduction. In this respect, taking into account the Union legislation and Member States' and Union's international obligations, notably under the Berne Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), documents on which third parties hold intellectual property rights should be excluded from the scope of Directive 2003/98/EC. If a third party was the initial owner of a document held by libraries (including university libraries), museums and archives that is still protected by intellectual property rights, that document should, for the purpose of this Directive, be considered as a document for which third parties hold intellectual property rights.

(7a) Documents in relation to which intellectual property rights have expired and which consequently enter the public

domain constitute a very important part of the collections of libraries, archives and museums and should be assigned priority in digitisation campaigns; it is therefore desirable to ensure that such digitisation does not alter their legal status. Access to, and re-use of, these data must be guaranteed in order to respect the fundamental right of access to culture, information and education.

Amendment 8

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Seeking out, digitising and presenting cultural assets are important challenges with the aim of ensuring access to culture, information and education for all. It is therefore important to opt for judicious use of cultural assets which facilitate access to the cultural heritage for members of the public, while taking account of the fact that cultural assets are not economic assets like any others and that they should be protected against excessive marketisation. The cultural institutions with which this Directive is concerned should be supported by the public authorities by establishing public funds for the digitisation and dissemination of data.

Amendment 9

Proposal for a directive Recital 10

Text proposed by the Commission

Amendment

(10) The scope of application of the Directive is extended to libraries (including university libraries), museums and

(10) The scope of application of the Directive is extended to libraries (including university libraries), museums and

archives. The Directive does not apply to other cultural institutions, such as operas, ballets or theatres, including the archives that are part of these institutions.

archives, *encouraging the use of virtualisation of historical sites in order to simplify access to this type of information.* The Directive does not apply to *research and education establishments or to* other cultural institutions, such as operas, ballets or theatres, including the archives that are part of these institutions.

Amendment 10

Proposal for a directive

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) As the re-use of documents held by libraries (including university libraries), museums and archives offers substantial social and economic potential for the cultural and creative industries, as well as to society through the extension of the collection of Europeana, the ongoing digitisation of European cultural collections should be promoted.

Amendment 11

Proposal for a directive

Recital 10 b (new)

Text proposed by the Commission

Amendment

(10b) Certain personal data contained in archive documents to which the ban on any form of discrimination applies should be excluded from the scope of Directive 2003/98/EC or, if the legislation in force requires them to be communicated, should be rendered anonymous or the data concerning individuals should be masked out before any use is made of them.

Amendment 12

Proposal for a directive Recital 10 c (new)

Text proposed by the Commission

Amendment

(10c) As regards the description, digitisation and presentation of cultural collections, there are numerous cooperation arrangements between libraries (including university libraries), museums, archives and private partners which involve public sector bodies granting exclusive rights of access and commercial exploitation to the cooperation partner. Practice has shown that these public-private partnerships can facilitate worthwhile use of cultural collections and at the same time that they accelerate access to the cultural heritage for members of the public. Directive 2003/98/EC should therefore not preclude the conclusion of agreements granting exclusive rights. Moreover, cultural institutions should be free to choose for themselves the partners with which they wish to cooperate, subject to compliance with the principles of transparency and non-discrimination.

Amendment 13

Proposal for a directive Recital 10 d (new)

Text proposed by the Commission

Amendment

(10d) Data held by educational and research establishments should remain outside the scope of Directive 2003/98/EC.

Amendment 14

Proposal for a directive Recital 10 e (new)

Text proposed by the Commission

Amendment

(10e) Public-service broadcasting should continue to be excluded from the scope of Directive 2003/98/EC.

Amendment 15

Proposal for a directive Recital 11

Text proposed by the Commission

Amendment

(11) To facilitate re-use, public sector bodies should make documents available through machine readable formats and together with their metadata where possible and appropriate, in a format that ensures interoperability, e.g. by processing them in a way consistent with the principles governing the compatibility and usability requirements for spatial information under Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)

(11) To facilitate re-use, public sector bodies should make documents available through **technology-neutral** machine readable formats and together with their metadata where possible and appropriate, in a format that ensures interoperability, e.g. by processing them in a way consistent with the principles governing the compatibility and usability requirements for spatial information under Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE).

Amendment 16

Proposal for a directive Recital 12

Text proposed by the Commission

Amendment

(12) Where charges are made for the re-use of documents, they should in principle be limited to the marginal costs incurred for their reproduction and dissemination, unless exceptionally justified according to

(12) Where charges are made for the re-use of documents, they should in principle be limited to the marginal costs incurred for their reproduction, **provision** and dissemination, unless exceptionally

objective, transparent and verifiable criteria. The necessity of not hindering the normal running of public sector bodies covering a substantial part of the operating cost relating to the performance of their public task from the exploitation of their intellectual property rights should notably be taken into consideration. ***The burden of proving that charges are cost-oriented and comply with relevant limits should lie with the public sector body charging for the re-use of documents.***

justified according to objective, transparent and verifiable criteria. The necessity of not hindering the normal running of public sector bodies covering a substantial part of the operating cost relating to the performance of their public task from the exploitation of their intellectual property rights should notably be taken into consideration.

Amendment 17

Proposal for a directive Recital 14

Text proposed by the Commission

(14) Proper implementation of some of the features of this Directive, such as means of redress, compliance with charging principles and reporting obligations require supervision by independent authorities competent on the re-use of public sector information. To ensure consistency between approaches at Union level, coordination between the independent authorities should be encouraged, particularly through exchange of information on best practices and data re-use policies.

Amendment

(14) Proper implementation of some of the features of this Directive, such as means of redress, ***especially for private individuals with regard to data protection***, compliance with charging principles and reporting obligations require supervision by independent authorities competent on the re-use of public sector information. To ensure consistency between approaches at Union level, coordination between the independent authorities should be encouraged, particularly through exchange of information on best practices and data re-use policies. ***Member States have a responsibility to make appropriate national authorities responsible for supervision.*** To ensure consistency between approaches at Union level, coordination between the independent authorities should be encouraged, particularly through exchange of information on best practices and data re-use policies.

Justification

The establishment of an independent regulatory authority would be contrary to the efforts of

the Member States to reduce bureaucracy and consolidate budgets, and would encroach to an unnecessary degree upon Member States' powers of self-organisation.

Amendment 18

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) Since the objective of this Directive, namely to facilitate the creation of Union-wide information products and services based on public sector documents, to ensure the effective cross-border use of public sector documents by private companies for added-value information products and services, and ***to limit distortions of competition on the Union market***, cannot be sufficiently achieved by Member States and can therefore, in view of the intrinsic pan-European scope of the proposed action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the Functioning of the European Union. In accordance with the principles of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Amendment

(15) Since the objective of this Directive, namely to facilitate the creation of Union-wide information products and services based on public sector documents, to ensure the effective cross-border use of public sector documents ***on the one hand*** by private companies for added-value information products and services and ***on the other hand by citizens to facilitate the free circulation of information and communication***, cannot be sufficiently achieved by Member States and can therefore, in view of the intrinsic pan-European scope of the proposed action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the Functioning of the European Union. In accordance with the principles of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Amendment 19

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) The Commission should assist the Member States in implementing the Directive in a consistent way by ***giving guidance***, particularly on charging and calculation of costs, on recommended

Amendment

(18) The Commission should assist the Member States in implementing the Directive in a consistent way by ***making proposals and laying down guidelines***, particularly on charging and calculation of

licensing conditions and on formats, after consulting interested parties.

costs, on recommended licensing conditions and on formats, after consulting interested parties.

Amendment 20

Proposal for a directive

Article 1 – point 2

Directive 2003/98/EC

Article 2 – point 6

Text proposed by the Commission

(6) 'machine-readable' means that digital documents are *sufficiently* structured *for* software applications *to identify reliably* individual *statements of fact and their internal structure.*'

Amendment

(6) 'machine-readable' means that digital documents are structured *so that* software applications *can, in a technology-neutral manner, extract* individual *data which are of interest.*'

Amendment 21

Proposal for a directive

Article 1 – point 3

Directive 2003/98/EC

Article 3 – paragraph 1

Text proposed by the Commission

(1) Subject to paragraph (2) Member States shall ensure that documents referred to in Article 1 shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.

Amendment

(1) Subject to paragraph (2) Member States shall ensure that documents *of public sector bodies* referred to in Article 1 shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV, *provided that the documents concerned are of types classified as accessible under the rules which exist in the Member States regarding access to public-sector information. Where possible, these documents shall be disseminated in technology-neutral, machine-readable form.*

Amendment 22

Proposal for a directive

Article 1 – point 3

Directive 2003/98/EC

Article 3 – paragraph 2

Text proposed by the Commission

(2) For documents for which libraries (including university libraries), museums and archives have intellectual property rights, Member States shall ensure that, where the re-use of documents is allowed, these documents shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.

Amendment

(2) For documents for which libraries (including university libraries), museums and archives have intellectual property rights, Member States shall ensure that, where the re-use of documents is allowed, these documents shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV, ***provided that the documents concerned are of types classified as accessible under the rules which exist in the Member States regarding access to public-sector information. Where possible, these documents shall be disseminated in technology-neutral, machine-readable form.***

Amendment 23

Proposal for a directive

Article 1 – point 4 – paragraph 2

Directive 2003/98/EC

Article 4 – paragraph 4

Text proposed by the Commission

(2) At the end of paragraph 4, the following wording is added:

‘The means of redress shall include the possibility of review by an *independent* authority *that is vested with specific regulatory powers regarding the re-use of public sector information and whose decisions are binding upon the public sector body concerned.*’

Amendment

(2) Paragraph 4 is replaced by the following:

‘4. Any negative decision shall contain a reference to the means of redress in case the applicant wishes to appeal the decision. The means of redress shall include a *reference to* the possibility of review by an authority *in the Member States.*’

Amendment 24

Proposal for a directive

Article 1 – point 5

Directive 2003/98/EC

Article 5 – paragraph 1

Text proposed by the Commission

1. *In* paragraph 1, *the words ‘through electronic means’ are* replaced by ‘in machine-readable format and together with their metadata.’

Amendment

1. Paragraph 1 *is* replaced by *the following:*

‘1. Public sector bodies shall make their documents available in *the* pre-existing formats or languages and, where possible and appropriate, in *technology-neutral*, machine-readable format and together with their metadata. This shall not imply an obligation for public sector bodies to create, *digitise* or adapt documents or render them machine-readable in a *technology-neutral* manner in order to comply with the request, nor shall it imply an obligation to provide extracts from documents where this would involve disproportionate effort, going beyond a simple operation.’

Amendment 25

Proposal for a directive

Article 1 – point 6 – paragraph 1

Directive 2003/98/EC

Article 6 – paragraph 1

Text proposed by the Commission

(1) Where charges are made for the re-use of documents, the total amount charged by public sector bodies shall be limited to the marginal costs incurred for their reproduction and dissemination.’

Amendment

(1) Where charges are made for the re-use of documents, the total amount charged by public sector bodies shall be limited to the marginal costs incurred for their reproduction, *provision* and dissemination.’

Amendment 26

Proposal for a directive

Article 1 – point 6 – paragraph 1

Directive 2003/98/EC

Article 6 – paragraph 2

Text proposed by the Commission

(2) In exceptional cases, in particular where public sector bodies generate a substantial part of their operating costs relating to the performance of their public service tasks from the exploitation of their intellectual property rights, public sector bodies may be allowed to charge for the re-use of documents over and above the marginal costs, according to objective, transparent and verifiable criteria, provided this is in the public interest and subject to the approval of the independent authority referred to in Article 4(4), and without prejudice to paragraphs 3 and 4 of this Article.'

Amendment

(2) Paragraph 1 shall not apply to:

(a) exceptional cases in which public sector bodies need to make a profit in order to cover a large part of the costs they have incurred in carrying out their public remit;

(b) libraries (including university libraries), museums and archives.

Justification

In the event of commercial re-use, public sector bodies should be permitted to levy charges which cover costs in order to meet the outlay incurred in forwarding the data and avoid deleterious effects on the quality of public-sector information and on capacity to invest. To some extent, libraries (including university libraries), museums and archives have to finance their own operations. If this revenue were lost, large deficits would arise in the Member States' budgets for culture.

Amendment 27

Proposal for a directive

Article 1 – point 6 – paragraph 1

Directive 2003/98/EC

Article 6 – paragraph 3

Text proposed by the Commission

(3) Notwithstanding paragraphs 1 and 2, libraries (including university libraries), museums and archives may charge over and above the marginal costs for the re-use of documents they hold.'

Amendment

deleted

Amendment 28

Proposal for a directive

Article 1 – point 6 – paragraph 2

Directive 2003/98/EC

Article 6 – paragraph 4

Text proposed by the Commission

(2) The existing text of Article 6 becomes paragraph 4.

Amendment

(2) The existing text of Article 6 becomes paragraph 4 ***and shall read as follows:***

“4. Where charges are made pursuant to paragraph 2, their total volume must be established using objective, transparent and variable criteria, and the total income derived from supplying and from authorising re-use of these documents shall not exceed the cost of collection, production, reproduction, provision and dissemination, while allowing a reasonable return on investment which accords with the performance of the public remits of the bodies and institutions. In the case of projects whose purposes are purely commercial, revenue from these charges must be invested in accordance with objective and transparent criteria which are not detrimental to the general interest. The charges referred to in paragraphs 1 and 2 should be cost-oriented over the appropriate accounting period and calculated in line

with the accounting principles applicable to the public sector bodies involved.”

Amendment 29

Proposal for a directive

Article 1 – point 6 – paragraph 2 a (new)

Directive 2003/98/EC

Article 6 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

2a. The following paragraph shall be inserted :

‘4a. Member States shall have a responsibility to appoint an authority which is suitable and possesses the right expertise to review compliance with the criteria for calculating charges referred to in paragraph 4.’

Amendment 30

Proposal for a directive

Article 1 – point 6 – paragraph 3

Directive 2003/98/EC

Article 6 – paragraph 5

Text proposed by the Commission

Amendment

(3) A new paragraph 5 is added:

deleted

‘The burden of proving that charges comply with this Article shall lie with the public sector body charging for re-use.’

Amendment 31

Proposal for a directive

Article 1 – point 7

Directive 2003/98/EC

Article 7

Text proposed by the Commission

(7) In Article 7 (Transparency), **the words ‘over and above the marginal costs or’ are inserted after ‘calculation of charges’.**

Amendment

(7) In Article 7 (Transparency), **the third sentence is replaced by the following:**

‘The public sector body in question shall also indicate which factors will be taken into account in the calculation of charges as referred to in Article 6.’

Amendment 32

Proposal for a directive

Article 1 – point 8 – paragraph 1

Directive 2003/98/EC

Article 8 – paragraph 1

Text proposed by the Commission

‘Public sector bodies may allow re-use without conditions or may impose conditions, **such as indication of source**, where appropriate through a licence. These conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.’

Amendment

Public sector bodies may allow re-use **of documents** without conditions or may impose conditions, where appropriate through a licence **dealing with relevant issues**. These conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition.

Amendment 33

Proposal for a directive

Article 1 – point 9

Directive 2003/98/EC

Article 9

Text proposed by the Commission

Member States shall **ensure that** practical arrangements **facilitating the cross-lingual search** for documents available for re-use **are in place**, such as asset lists of main documents with relevant metadata, accessible preferably **online and** in machine-readable format, and portal sites

Amendment

Member States shall **make** practical arrangements **to facilitate searches** for documents available for re-use **throughout the Union**, such as asset lists of main documents with relevant metadata, accessible preferably in **technology-neutral**, machine-readable format, and

that are linked to *decentralised* asset lists.’

portal sites that are linked to asset lists.’

Justification

It is worthwhile to introduce cross-lingual search functions, and they are already provided voluntarily. However, in view of the financial situation of the public sector, introducing a general requirement always to provide such search options in other European languages as well would entail disproportionately high costs.

Amendment 34

Proposal for a directive

Article 1 – point 9 a (new)

Directive 2003/98/EC

Article 11 – paragraph 2

Text proposed by the Commission

Amendment

(9a) In Article 11, paragraph 2 is replaced by the following:

‘2. Notwithstanding paragraph 1, where an exclusive right is necessary for the provision of a service in the public interest, the validity of the exclusive rights arrangement shall be subject to regular review, and shall, in any event, be reviewed every four years. The exclusive arrangements established after the entry into force of this Directive shall be subject to the principle of transparency and shall be made public by the public sector bodies concerned.’

Amendment 35

Proposal for a directive

Article 1 – point 9 b (new)

Directive 2003/98/EC

Article 11 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(9b) In Article 11, the following paragraph is inserted:

‘2a. Notwithstanding paragraph 1, where

an exclusive right is granted in connection with the commercial exploitation which is necessary in order to digitise cultural collections, the commercial exploitation shall not continue for longer than seven years. During this period, the exclusive right need not be reviewed. The exclusive arrangements established after the entry into force of this Directive shall be transparent and made public.'

Amendment 36

Proposal for a directive

Article 1 – point 10

Directive 2003/98/EC

Article 11 – paragraph 3

Text proposed by the Commission

(10) In Article 11 (Prohibition of exclusive arrangements), *the following sentence is added at the end of paragraph 3:*

'However, such arrangements involving cultural establishments and university libraries shall be terminated at the end of the contract or in any case not later than 31 December 20XX [6 years after entry into force of the Directive].'

Amendment

(10) In Article 11 (Prohibition of exclusive arrangements) *paragraph 3 is replaced by the following:*

'3. Existing exclusive arrangements that do not qualify for an exception under paragraph 2 shall be terminated at the end of the contract or in any case not later than 31 December 2008. Such arrangements concerning libraries (including university libraries), museums and archives which do not qualify for an exception under paragraphs 2 or 2a shall be terminated at the end of the contract or in any case not later than 31 December 20XX [6 years after entry into force of the Directive].'

Amendment 37

Proposal for a directive

Article 1 – point 12 – introductory part

Directive 2003/98/EC

Article 13 - paragraph 1

Text proposed by the Commission

(12) In Article 13 (Review) the date of 1 July 2008 is replaced by [**3 years** after the **transposition** date] and the following paragraph is added:

Amendment

(12) In Article 13(1)(Review) the words "1 July 2008" are replaced by [**5 years** after the date **of entry into force of this directive**] and the following paragraph is added:

Amendment 38

Proposal for a directive

Article 1 – point 12

Directive 2003/98/EC

Article 13 – paragraph 2a (new)

Text proposed by the Commission

‘Member States shall submit a **yearly** report to the Commission on the extent of the re-use of public sector information, the conditions under which it is made available and the work of the independent authority referred to in article 4(4).’

Amendment

(2a) ‘Member States shall submit a report to the Commission **every two years** on the extent of the re-use of public sector information, the conditions under which it is made available and the work of the independent authority referred to in article 4(4).’

Justification

It is not clear what purpose compulsory annual reporting would serve, as no changes are likely to occur within a single year in the factors which would be subject to the reporting requirement, and it would impose a disproportionate additional burden on public bodies.

PROCEDURE

Title	Amendment of Directive 2003/98/EC on re-use of public sector information	
References	COM(2011)0877 – C7-0502/2011 – 2011/0430(COD)	
Committee responsible Date announced in plenary	ITRE 15.12.2011	
Opinion by Date announced in plenary	CULT 15.12.2011	
Rapporteur Date appointed	Sabine Verheyen 24.1.2012	
Discussed in committee	27.3.2012	29.5.2012
Date adopted	10.7.2012	
Result of final vote	+: 21	–: 5
	0: 2	
Members present for the final vote	Malika Benarab-Attou, Lothar Bisky, Piotr Borys, Jean-Marie Cavada, Santiago Fisas Aixela, Lorenzo Fontana, Mary Honeyball, Petra Kammerevert, Morten Løkkegaard, Emma McClarkin, Emilio Menéndez del Valle, Katarína Nevedálová, Doris Pack, Chrysoula Paliadeli, Marie-Thérèse Sanchez-Schmid, Marietje Schaake, Marco Scurria, Emil Stoyanov, Hannu Takkula, László Tőkés, Helga Trüpel, Marie-Christine Vergiat, Sabine Verheyen, Milan Zver	
Substitute(s) present for the final vote	Ivo Belet, Nessa Childers, Nadja Hirsch, Iosif Matula, Mitro Repo	
Substitute(s) under Rule 187(2) present for the final vote	Evžen Tošenovský	