



EUROPEAN PARLIAMENT

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Committee on Industry, Research and Energy

2011/0430(COD)

18.7.2012

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DRAFT REPORT

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

Committee on Industry, Research and Energy

Rapporteur: Ivailo Kalfin

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0877),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0502/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 25 April 2012¹,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on the Internal Market and Consumer Protection, the Committee on Culture and Education and the Committee on Legal Affairs (A7-0000/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1
Proposal for a directive
Citation 5 a (new)

Text proposed by the Commission

Amendment

***Having regard to the opinion of the
European Data Protection Supervisor¹,***

¹ OJ C 191, 29.6.2012, p. 129.

¹ Opinion of the European Data protection Supervisor of 18 April 2012 on the 'Open-Data Package' of the European Commission including a Proposal for a Directive amending Directive 2003/98/EC on re-use of public sector information (PSI)

Or. en

Amendment 2
Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Excessive charging hampers the re-use of public sector information and impedes the transparency and the involvement of SMEs in the improvement of the services, based on public information. Public bodies should be encouraged to guarantee, where possible, that the information charges do not exceed their marginal cost. The public sector information is an information, collected, ordered or generated for the internal purpose of the public body, and not for the reuse. Therefore, charging should apply only for the costs incurred for the reproduction and dissemination. In case of negatively affecting the financial revenues of the public entities as a result from a lower income from selling the information, these should be compensated by the central budget, which is supposed to benefit from the reduced administration and the stimulation of the business activities.

Or. en

Amendment 3
Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The obligation to make all generally available documents re-usable should be done while guaranteeing the protection of privacy and personal data at Union level, including in cross-border data reuse, by ensuring the anonymisation of the personal data.

Or. en

Amendment 4
Proposal for a directive
Recital 16

Text proposed by the Commission

Amendment

(16) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the right to property (Article 17). Nothing in this Directive should be interpreted or implemented in a manner that is inconsistent with the European Convention on Human Rights.

(16) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including ***the right to protection of personal data in all aspects of life (Article 8)*** and the right to property (Article 17). Nothing in this Directive should be interpreted or implemented in a manner that is inconsistent with the European Convention on Human Rights.

Or. en

Amendment 5
Proposal for a directive
Recital 18

Text proposed by the Commission

Amendment

(18) The Commission should assist the Member States in implementing the

(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 licensing conditions and on formats, after consulting interested parties.

Directive in a consistent way by giving guidance, particularly on charging and calculation of costs, on recommended licensing conditions and on formats, after consulting interested parties. ***Thus, cross-border exchange of best practices and knowledge between stakeholders, public bodies and regulators should be promoted by the Commission and the Member States.***

Or. en

Amendment 6

Proposal for a directive

Article 1 – point 2 a (new)

Directive 2003/98/EC

Article 2 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

2a. The following paragraph is added to Article 2:

"6a. 'technologically-neutral' means that the electronic format should neither require nor assume a particular technology for the access, modification and (re)processing of their content";

Or. en

Amendment 7

Proposal for a directive

Article 1 – point 2 b (new)

Directive 2003/98/EC

Article 2 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

2b. The following paragraph is added to Article 2:

"6b. 'anonymisation' means carrying out the necessary procedures to delete, mask

or to make illegible personal data."

Or. en

Amendment 8
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.***

Or. en

Amendment 9
Proposal for a directive
Article 1 – point 5 – point 1
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) In paragraph 1, the words ‘through electronic means’ are replaced by ‘in machine-readable format and together with their metadata, ***in a technologically-neutral way.***’

Or. en

Amendment 10

Proposal for a directive

Article 1 – point 5 – point 1 a (new)

Directive 2003/98/EC

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) The following paragraph is inserted:

"(1a) In line with the principles of protection of privacy and personal data, whereas any document contains personal data, as defined in the legislation in force, public bodies should ensure that it is anonymised before publication."

Or. en

Amendment 11

Proposal for a directive

Article 1 – point -10 (new)

Directive 2003/98/EC

Article 11 – paragraph 2

Text proposed by the Commission

Amendment

-10. Article 11(2) is replaced by the following:

"2. However, where an exclusive right is necessary for the provision of a service in the public interest, the validity of the reason for granting such an exclusive right shall be subject to regular review by an independent authority, and shall, in any event, be reviewed every three years. The exclusive arrangements established after the entry into force of this Directive shall be transparent and made public."

Or. en